



*Mayor Sylvia Ballin • Mayor Pro Tem Robert C. Gonzales  
Councilmember Jesse H. Avila • Councilmember Joel Fajardo • Councilmember Antonio Lopez  
Interim City Manager Fred Ramirez*

**SAN FERNANDO CITY COUNCIL**  
**SPECIAL MEETING NOTICE & AGENDA**  
**MARCH 24, 2014 – 6:00 PM**

**COUNCIL CHAMBERS**  
**117 MACNEIL STREET**  
**SAN FERNANDO, CA 91340**

**NOTICE IS HEREBY GIVEN** that the San Fernando City Council will hold a Special Meeting on **Monday, March 24, 2014, at 6:00 p.m.**, in the Council Chambers, located at 117 Macneil Street, San Fernando, California.

**CALL TO ORDER/ROLL CALL**

**PLEDGE OF ALLEGIANCE**

Mayor Sylvia Ballin

**APPROVAL OF AGENDA**

**PUBLIC STATEMENTS – WRITTEN/ORAL**

There will be a three (3) minute limitation per each member of the audience who wishes to make comments in order to provide a full opportunity to every person who desires to address the City Council. Only matters contained in this notice may be considered.

**STUDY SESSION**

**1) CONSIDERATION OF AWARD OF FRANCHISE AGREEMENT FOR THE CITY VEHICLE TOWING AND STORAGE SERVICES**

Recommend that the City Council:

- a. Award the Franchise Agreement for Vehicle Towing and Storage Services (Contract No. 1740) to Black & White Garage, Incorporated; and



SAN FERNANDO CITY COUNCIL  
SPECIAL MEETING NOTICE & AGENDA – MONDAY, MARCH 24, 2014  
PAGE 2

---

- b. Adopt Resolution No. 7594 approving the Franchise Agreement for Vehicle Towing and Storage Services between the City and Black & White Garage, Incorporated and adopting a fee schedule for the payment of franchise fees.

## CITY COUNCIL ITEMS

### **2) PROPOSED CHANGES TO THE MEMBERSHIP OF THE BUDGET, PERSONNEL, AND FINANCE STANDING COMMITTEE**

This item is placed on the agenda by Mayor Sylvia Ballin.

## RECESS TO CLOSED SESSION

- A) CONFERENCE WITH LEGAL COUNSEL TO DISCUSS MATTER OF POTENTIAL LITIGATION/  
SIGNIFICANT EXPOSURE TO LITIGATION (G.C. §54956.9(D)(2) AND §54956.9(E)(1) AND  
§54956.9(E)(3)  
One (1) Matter

## RECONVENE/REPORT OUT FROM CLOSED SESSION

## ADJOURNMENT

*I hereby certify under penalty of perjury under the laws of the State of California that the foregoing agenda was posted on the City Hall bulletin board not less than 24 hours prior to the meeting.*

*Elena G. Chávez, City Clerk*

*Signed and Posted: March 20, 2014 (12:00 p.m.)*

Agendas and complete Agenda Packets (including staff reports and exhibits related to each item) are posted on the City's Internet Web site ([www.sfcity.org](http://www.sfcity.org)). These are also available for public reviewing prior to a meeting in the City Clerk's Office. Any public writings distributed by the City Council to at least a majority of the Councilmembers regarding any item on this regular meeting agenda will also be made available at the City Clerk's Office at City Hall located at 117 Macneil Street, San Fernando, CA, 91340 during normal business hours. In addition, the City may also post such documents on the City's Web Site at [www.sfcity.org](http://www.sfcity.org). In accordance with the Americans with Disabilities Act of 1990, if you require a disability-related modification/accommodation to attend or participate in this meeting, including auxiliary aids or services please call the City Clerk's Office at (818) 898-1204 at least 48 hours prior to the meeting.

# **San Fernando City Council Special Meeting**

*This Page  
Intentionally  
Left Blank*





*This Page  
Intentionally  
Left Blank*

## **POLICE DEPARTMENT**

### **MEMORANDUM**

**TO:** Mayor Sylvia Ballin and Councilmembers

**FROM:** Fred Ramirez, Interim City Manager  
By: Robert Parks, Acting Police Chief  
Nichole Hanchett, Acting Police Lieutenant

**DATE:** March 24, 2014

**SUBJECT:** Consideration of Award of Franchise Agreement for the City Vehicle Towing and Storage Services

---

#### **RECOMMENDATION:**

It is recommended that the City Council:

- a. Award the Franchise Agreement for Vehicle Towing and Storage Services (Exhibit “A” of Attachment “A” – Contract No. 1740) to Black & White Garage, Incorporated;
- b. Adopt Resolution No. 7594 (Attachment “A”) approving the Franchise Agreement for Vehicle Towing and Storage Services between the City and Black & White Garage, Incorporated and adopting a fee schedule for the payment of franchise fees.

#### **BACKGROUND:**

1. On March 30, 2009, the City of San Fernando and Black and White Garage, Incorporated entered into a new Franchise Agreement for Vehicle Towing and Storage Services (City Contract No. 1608), which gave Black and White Garage, Incorporated exclusive rights for vehicle towing services to the City. The initial term of this agreement was for five (5) years, which is set to expire on March 29, 2014, unless the agreement was renewed by the City for an additional five (5) year term. (See Attachment “A”.)
2. On November 26, 2013, Black and White Garage, Incorporated submitted a letter requesting that the Acting Police Chief extend the current contract with Black and White Garage, Incorporated for an additional five (5) year term as allowed under the current franchise agreement.
3. On December 2, 2013, the City Council held a study session to discuss the current Franchise Agreement for City vehicle towing and storage services and to provide City staff with direction on the pending Request For Proposal (RFP) process to consider a new franchise

Consideration of Award of Franchise Agreement for the City Vehicle Towing and Storage Services  
Page 2

agreement for City vehicle towing and storage services. As part of the discussion, the City Council directed City staff to bring back a draft of the RFP for Vehicle Towing and Storage Services Contract on January 6, 2014, prior to proceeding with the RFP process to solicit proposals from prospective towing contractors.

4. On December 9, 2013, Acting Chief Parks notified Black and White Garage, Incorporated in writing that based on City Council direction to City staff at their December 2, 2013 meeting, the City would not be extending the current franchise agreement an additional five (5) years. Furthermore, the Chief informed them that the City would begin the RFP process to solicit proposals from qualified vendors to provide the City with vehicle towing and storage services under a new contract. In addition, Black and White Garage, Incorporated was also encouraged to participate in the upcoming RFP process.
5. On January 23, 2014, the Police Department issued a RFP to solicit proposals for the Franchise Agreement for the City Vehicle towing and Storage Services.
6. On February 20, 2013, the City Clerk received proposals in response to the RFP from the following four (4) vendors:
  - Black & White Garage, Incorporated
  - Jon's Towing
  - Larry's Towing
  - Mid Valley Towing

*(See Attachment E; All RFPs were provided to the City Council under separate cover on Monday, March 17, 2014.)*

## **ANALYSIS:**

Police Department staff reviewed the proposals and subsequently conducted on-site inspections with the assistance of City of San Fernando Planning Commissioner Theale Haupt. Based on the physical inspections in conjunction with answers provided by the owners present during the inspections, the following represents the findings to support the recommendation to award the contract to Black & White Garage, Incorporated.

### **General Provisions**

All of the vendors met the requirements for general provisions with the exception of Mid Valley Towing who did not possess a City of Los Angeles business license as of March 11, 2014.

### **Storage Provisions**

Black & White Garage, Incorporated met and in some instances exceeded the storage provisions as listed in the RFP.

Consideration of Award of Franchise Agreement for the City Vehicle Towing and Storage Services  
Page 3

Storage Capacity, Primary Storage Lot, Storage Enclosures

- Black & White Garage, Incorporated met and exceeded the required storage capacity in both their primary and secondary lots with a combined total storage capacity of 650 vehicles. In 2011, the San Fernando Police Department (SFPD) impounded a total of 1206 vehicles, which yielded an average of 100 vehicles per month. In 2012, the yearly impounds were 724, which yielded a monthly average of 60. In 2013, the impound totals were 401, which yielded a monthly average of 33. As of March 2014, the SFPD impounded 41 vehicles in January and 45 in February. Using the average of 43 vehicles per month, it is anticipated that the Department will impound at least 516 in 2014.

Both the primary and secondary storage lots at Black & White Garage, Incorporated are well maintained with state of the art video surveillance and physical security measures; including eight feet tall block walls, concertina wire, wrought iron gates and solid electric gates, to prevent theft, unauthorized entry, damage or accidents. The office contains a recordable video surveillance system in addition to a Computer Aided Dispatch (CAD) system. The CAD system utilizes GPS, which enables the dispatcher to assign tow units based on geographic proximity to the call for service. The CAD system also allows for tow unit accountability, documented response, arrival and clearance times, in addition to generated reports with that information. Black & White Garage, Incorporated also utilizes a software program titled Vehicle Impound Information Center (VIIC) at no cost to the City. VIIC is a web based system that contains up to date information regarding impounded vehicles that allows for easy tracking, inventory, and reporting.

- Jon's Towing provided a capacity of 100 vehicles and the primary storage lot is a mixture of both dirt and asphalt that is in overall poor condition. Asphalt in disrepair can present a liability with respect to vehicle damage and the risk of personal injury to customers who need to access their vehicle while it is stored on the lot. Some of the surveillance cameras were not working at the time of inspection. The perimeter enclosure consists of chain link and corrugated steel siding, which can be easily breached and does not provide for sufficient security. Jon's Towing currently has a secondary lot located near the downtown area of Los Angeles that holds 25 vehicles. The owner also stated he could secure property on First Street in San Fernando upon award of contract. It is important to note that City of San Fernando Zoning Code Section 106-613(2), requires approval of Conditional Use Permit for the operation of towing and storage facility (automotive impound yard) within the City's M-2 (Light Industrial) zone. Therefore, final approval to operate a new towing and storage facility on First Street within the City of San Fernando requires discretionary approval, which is not guaranteed.
- Larry's Towing provided a capacity of 58 vehicles in addition to his fleet of trucks parked within the lot. In order to meet this stated capacity, Larry's Towing made the commitment to remove a storage shed and purchase car stackers. As is, the lot does not appear to be capable of storing that number of vehicles without removing the company's tow trucks from the lot. The lot is both concrete and asphalt with the asphalt portion in fair condition. The lot has video surveillance, lighting and a very secure perimeter block wall and solid fence. Larry's Towing currently has an entitlement to operate a vehicle and towing facility from the primary

Consideration of Award of Franchise Agreement for the City Vehicle Towing and Storage Services  
Page 4

storage lot that existing on First Street (Planning Commission Resolution No. 1193; CUP 1993-02). However, per City zoning code, any proposed modification to the existing layout to include among other things, vehicle lifts would require modification of the existing Conditional Use Permit, which is subject to review and approval by the City's Planning and Preservation Commission.

- Mid Valley Towing provided a storage capacity of 130 vehicles which was self-described by the owner as "tight." The asphalt portion of the lot is in poor condition and the owner does not have a secondary storage facility. The primary lot has video surveillance and lighting in addition to cinder block walls and a solid steel gate. The owner stated he could secure property within the City of San Fernando within 90 days of award of contract that meets the specifications of the RFP. It is important to note that City of San Fernando Zoning Code Section 106-613(2), requires approval of Conditional Use Permit for the operation of towing and storage facility (automotive impound yard) within the City's M-2 (Light Industrial) zone. Therefore, final approval to operate a new towing and storage facility on First Street within the City of San Fernando requires discretionary approval, which is not guaranteed.

Investigative Hold Area

- Black & White Garage, Incorporated has a separate and self-contained investigative hold area within their primary storage facility. It exceeds the City's capacity requirement, meets law enforcement standards for chain of custody and contains exceptional security measures to prevent unauthorized entry. Persons are only granted entry via the dispatch control center and the door is directly monitored via video surveillance. The floor of the facility consists of smooth concrete and there is ample space for complete access to the vehicle for inspection and evidence recovery. It is well lit and air conditioned and contains a separate secure area that can house a mid-size vehicle and or any vehicle parts. In addition to the investigative hold area, the primary storage lot contains evidence lockers that permit high value items left within vehicles to be inventoried and secured. This additional measure reduces the potential for theft and or damage of personal property.
- Jon's Towing did not have an investigative hold area and the owner proposed to secure property on First Street in San Fernando that would meet the specifications. As previously noted in the prior section, new vehicle and towing facilities on First Street in the City of San Fernando are subject to City review and approval of a conditional use permit by the City's Planning and Preservation Commission.
- The investigative hold area at Larry's Towing does not meet the specifications in the RFP. The area is contained within the main building and is secured by two exterior roll up doors and an interior 6 foot sliding steel door. During inspection, the area appeared to be the main ingress and egress to the tow yard from the office facility. The top of the steel door is unsecured to the roof of the building, which could permit unauthorized access to the area. The area is monitored by video surveillance cameras.
- Mid Valley Towing's current investigative hold area does not meet the specifications in the RFP as it is chain link, open at the top, not monitored by video and is exposed to the

Consideration of Award of Franchise Agreement for the City Vehicle Towing and Storage Services  
Page 5

elements. Upon award of contract, the owners proposed to use two additional areas within their primary storage yard that have roll up and securing doors and could accommodate the five vehicle capacity. At present, neither of the two areas have video surveillance or a means to ensure a record of entry.

Method of Vehicle Storage

- Black & White Garage, Incorporated, employs a method of vehicle storage based on value, condition, and anticipated length of time within storage. Vehicles that are stored pursuant to California Vehicle Code 14602.6, which requires a 30 day hold, are parked in the rear portion of the lot. High value vehicles and motorcycles are parked within two separate portions of the lot that are distinguished from the other vehicles by a block wall. Wrecked and damaged vehicles are parked within a separate area so as to prevent debris or fluid from damaging other non-wrecked vehicles. Substantially wrecked vehicles that require further inspection by law enforcement or insurance investigators are parked under a large carport to facilitate easy and unrestricted access and visibility. The primary storage yard can also accommodate water craft and trailers. Upon arrival to the storage facility, vehicles are physically inventoried by employees and photographed to memorialize their condition. High value items are secured in the storage lockers and can only be released to the registered owner of the vehicle.
- Jon's Towing had no stated method for storage and vehicles of all types were parked next to one another. This lack of systematic storage has the potential to expose the City to liability. Vehicles that have preexisting damage or are of high value should be separated in order to maintain the integrity of each. A clearly identified storage method also ensures that vehicles can be located and or accessed in a timely manner by staff thereby minimizing any inconvenience to customers.
- Larry's Towing stated that vehicles are separated by value and anticipated length of storage. Newer vehicles are parked along the wall of the business while vehicles stored for long time periods would be stored on the top rack of the car stackers when purchased. Wrecked vehicles were stored in one area of the yard so as to prevent damage to non-wrecked vehicles.
- Mid Valley Towing employs a method of vehicle storage that consists of separation by value and duration. Long term vehicles are parked on the top of the car stackers and "high value" vehicles are parked along the wall of the property. Upon inspection, it appeared that vehicles of varying value and condition were parked adjacent to one another that was contrary to the stated storage method.

Distance from SFPD

- Black & White Garage, Incorporated is located 1.49 miles from the SFPD via a straight route down San Fernando Road. The short distance from the City is a very important factor with regard to work flow and customer convenience. Tow units can arrive on scene within 10-15 minutes from the time of call. This permits officers to expeditiously complete their

## Consideration of Award of Franchise Agreement for the City Vehicle Towing and Storage Services

Page 6

assignment and be available for other calls for service. In addition, the short distance affords customers, who may not have subsequent transportation, a direct route to the yard via San Fernando Road.

- Jon's Towing is 7.85 miles from the SFPD. The significant distance from the SFPD is accessed via the freeway. As a result, Jon's Towing would be inconvenient for customers to access in a timely manner. In addition, the time to dispatch units at the request of SFPD would most likely not meet the 10-15 minute time frame and could take longer depending upon traffic conditions.
- Larry's Towing is the only prospective vendor located within the City of San Fernando at a distance of .6 miles from the SFPD via a direct route down First Street.
- Mid Valley Towing is located 8.12 miles from the SFPD. The significant distance from the SFPD is accessed via the freeway. As a result, Mid Valley Towing would be inconvenient for customers to access in a timely manner. In addition, the time to dispatch units at the request of SFPD would most likely not meet the 10-15 minute time frame and could take longer depending upon traffic conditions.

Office Facility

- The office facility for Black & White Garage, Incorporated is well maintained and contained many customer amenities including a customer waiting area with seating, a vending machine and a unisex restroom accessible without the assistance of an employee. A customer-accessed restroom is important because it reduces the need of staff to halt work activities to provide access. The waiting area is video monitored in order to memorialize the exchange between staff and customers. This ensures that all customers are treated with courtesy and professionalism. In addition, the property contains off-street customer parking immediately adjacent to the office that is well lit and video monitored. This provides for additional customer safety and convenience.
- Jon's Towing had a very small customer waiting area with no seating, amenities or video surveillance. Customers may access the restroom facilities with the assistance of an employee. The primary storage lot does not house any off-street customer parking and is located within an industrial compound. This geographic location and set up can create a concern for customer safety and comfort. At the time of inspection, there was limited parking on the street adjacent to the facility.
- Larry's Towing has a very clean office that has a secure waiting area with no video surveillance or seating. Customers may access a restroom and seating when assisted by an employee. Larry's Towing does not house any off-street customer parking and is located within an industrial area where there is limited on-street parking available during normal business hours.
- The office at Mid Valley Towing is clean and in good condition. The waiting area has seating and a pay phone adjacent to the customer service window. There is no video surveillance



## Consideration of Award of Franchise Agreement for the City Vehicle Towing and Storage Services

Page 7

and customers may use the restroom facility when escorted by an employee. At the time of inspection, there was limited parking in front of the office as the company had a heavy duty tow truck parked in front and there is no off-street customer parking.

**Staffing Provisions**Sufficient Personnel, Dispatchers and Tow Unit Operators:

- Black & White Garage, Incorporated, employs (18) individuals, including (6) dispatchers and (11) drivers. All undergo a background investigation, including fingerprint check. All staff members were wearing uniform shirts that clearly displayed their name, rank and the Black & White Garage, Incorporated shoulder patch at the time of inspection. The office is staffed 24 hours per day, 7 days per week, 365 days per year. Vehicles are released during normal business hours of 7 a.m. to 7 p.m. The dispatch center staffs two dispatchers who are available to address the customer service window, as well as requests for service from municipalities and tow unit operators. The availability of multiple drivers is important as it can reduce the possibility of time delays in response to calls for service.
- Jon's Towing employs (6) tow unit operators and (1) dispatcher. During our inspection, there was no one monitoring the customer service window. After a minute, the tow unit operator that came to the window was not wearing his uniform. While inside, we saw that other employees inside of the office within view through the customer service window were also not wearing their uniform shirts, but had them on at the conclusion of the inspection. All employees undergo a background check that includes a fingerprint check. Staff is available 24 hours per day, 6 days per week, and the owner works from home on Sunday. Having only one dispatcher has the potential to cause service delays when the need arises to address both the customer service window, in addition to telephonic requests for service.
- Larry's Towing employs (5) persons including the owner who is also the sole dispatcher, and driver (3) lightweight drivers and (2) heavy tow unit operators. All of their employees undergo a background investigation including a fingerprint check that meets the standards for the CHP. During our inspection, the owner and (1) driver present were wearing uniform shirts that displayed their names and the name of the business. Larry's Towing will modify their current operating hours to conform to the RFP.
- Mid Valley Towing employs (10) individuals, which include the (2) owners, (1) dispatcher and (7) tow unit operators. All employees undergo a background check, including fingerprint check that meets the specifications for the CHP. Most employees were wearing uniform shirts with name tags during the inspection. Presently, calls for service received when the business is closed are forwarded to the owner and or the on-call tow unit operator who also functions as the on-call dispatcher. Upon award of contract, Mid Valley Towing would extend their current operating hours from 8 a.m. to 5 p.m. hours to meet the RFP requirement.

## Consideration of Award of Franchise Agreement for the City Vehicle Towing and Storage Services

Page 8

### **Vehicles and Equipment**

- Black & White Garage, Incorporated, maintains a fleet of (16) vehicles, which includes (2) wheel lift tow vehicles, (9) flatbeds, and (5) forklifts. Black & White Garage, Incorporated, does not own a heavy duty tow vehicle that would be used to secure a large vehicle such as an 18 wheeler, but sub-contracts for that service with both OPG certified vendors, Ross Baker Towing and Keystone Towing.
- Jon's Towing maintains a fleet of (2) tow units and (1) flatbed which does not meet the requirements per the RFP.
- Larry's Towing maintains a fleet of (1) tow unit, (2) flatbeds, (2) heavy duty vehicles and (1) tractor trailer that are all inspected annually by the CHP. During inspection, the owner stated that an additional tow unit is "on order" to meet the specifications of RFP.
- Mid Valley Towing maintains a fleet of (2) tow units and (2) flatbeds that are sufficiently equipped and inspected annually by the CHP.

### **Insurance Provisions**

- Black & White Garage, Incorporated exceeded the required insurance mandates.
- Jon's Towing did not meet both the Garage Keepers and On-Hook Liability requirements.
- Larry's Towing did not meet both the Garage Keepers and On-Hook Liability requirements; however, the owner did acknowledge the insurance deficit within their proposal and stated that he would provide additional coverage subject to being selected as the City's contractor for vehicle storage and towing services.
- Mid Valley Towing did not meet both the Garage Keepers and On-Hook Liability requirements.

### **CONCLUSION:**

Although all potential vendors agreed to conform to the RFP requirements in various categories including hours of operation and towing and storage rates, Black & White Garage, Incorporated was the only proposed vendor to meet and in some cases exceed all the requirements. Black & White Garage, Incorporated has distinguished itself through their state of the art facilities that are well maintained and secured so as to provide excellent customer amenities in addition to reducing damage, injury and liability in the handling and storage of towed vehicles. In addition Black & White Garage, Incorporated has ample equipment and staff to professionally address all customer needs in addition to the current and future needs of the City of San Fernando. To date, there have been no lawsuits or other liability issues associated with Black & White Garage, Incorporated. The SFPD has not received any complaints from the general public or from staff regarding Black & White Garage, Incorporated.

Consideration of Award of Franchise Agreement for the City Vehicle Towing and Storage Services  
Page 9

In addition, Black & White Garage, Incorporated, is the only proposed vendor who is a certified Official Police Garage (OPG) with the City of Los Angeles. As described on the City of Los Angeles Official Police Garage webpage, OPGs are highly regulated tow providers whose practices are controlled by the City of Los Angeles Police Commission (CID). The strict regulations include internal policies and procedures, administrative requirements, insurance requirements that indemnify the City, customer service decorum, facility and equipment requirements and rates. More specifically, OPGs must comply with 25 separate City of Los Angeles regulations, as well as additional State and Federal laws pertaining to conduct, performance and appearance.

Because of their current ability to meet all of the requirements in the RFP as demonstrated during the onsite inspections, in addition to the augmented oversight and regulatory compliance facilitated by the Los Angeles Police Commission, Black & White Garage, Incorporated has demonstrated the ability to professionally and competently address the current and future needs of the City of San Fernando. As a result, it is the recommendation of the Police Department to award the Vehicle Towing and Storage Contract to Black & White Garage, Incorporated.

**BUDGET IMPACT:**

Based on the fact that the current franchise fee of \$45.00 has not changed and the recommended vendor is the current Franchisee, the forecasted revenue will be based on the number of actual vehicle's towed. The revenue for Vehicle Towing and Storage Services for Fiscal Years 2011-2012 and 2012-2013 was \$38,025 and \$27,990, respectively. The current year-to-date revenue for FY 2013-2014 is \$13,095. Based on the monthly average number of vehicles towed, it can be estimated that the Police Department will impound approximately 516 vehicles during Fiscal Year 2014-2015 and produce approximately \$23,220 in revenue.

**ATTACHMENTS:**

- A. Resolution No. 7594 and Exhibit A: Franchise Agreement for City Vehicle Towing and Storage Services (Contract No. 1740)
- B. Current Franchise Agreement (Contract No. 1608)
- C. Comparison Summary
- D. Photographs
- E. RFPs for City Vehicle Towing and Storage Services (provided under separate cover the City Council on March 17, 2014)

## ATTACHMENT "A"

## RESOLUTION NO. 7594

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN FERNANDO APPROVING THAT CERTAIN FRANCHISE AGREEMENT ENTITLED "FRANCHISE AGREEMENT FOR VEHICLE TOWING AND STORAGE SERVICES BETWEEN THE CITY OF SAN FERNANDO AND FRANCHISE NAME AND ADOPTING A FEE SCHEDULE FOR THE PAYMENT OF FRANCHISE FEES**

**WHEREAS**, the City regularly requires motor vehicle towing and storage services, including the removal of abandoned, stolen and damaged vehicles, occasional towing and storage of City-owned vehicles, and special security for vehicles held for investigation of crimes;

**WHEREAS**, the City lacks the facilities, equipment of personnel to perform the services called for in the towing program and must contract for such services;

**WHEREAS**, pursuant to San Fernando City Code Section 90-911, any towing or vehicle storage done on behalf of the City or at the request of the Police Department is classified as part of the City's towing program and shall be performed only by a towing and storage operator who has been approved by the City to perform such services and who has executed a franchise agreement with the City;

**WHEREAS**, FRANCHISEE NAME represents that it possesses the facilities, equipment and personnel necessary to perform the services called for in the City's towing program and is qualified to provide such services;

**WHEREAS**, pursuant to California Vehicle Code Section 12110 and San Fernando City Code Section 90-911, the City is authorized to enter into a franchise agreement and impose a franchise fee;

**WHEREAS**, the City currently has a Vehicle Towing and Secure Storage Services Agreement with Black & White Garage, Incorporated, which shall expire by its terms on March 29, 2014; and

**WHEREAS**, the City desires to approve the Franchise Agreement for Vehicle Towing and Storage Services between the City of San Fernando and FRANCHISEE NAME, substantially in the form attached (Exhibit "A") and approve the amount of the franchise fee to be paid by FRANCHISEE NAME.

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SAN FERNANDO DOES HEREBY RESOLVE, FIND, DETERMINE AND ORDER AS FOLLOWS:**

**Section 1.** The foregoing recitals are hereby found to be true and correct and are incorporated into this Resolution.

**Section 2.** The City Council hereby approves the Franchise Agreement for Vehicle Towing and Storage Services between the City of San Fernando and **FRANCHISEE NAME** (the "Agreement") (Exhibit "A").

**Section 3.** The franchise fee to be charged for the purpose of recouping the costs of the administration and operation of the towing program pursuant to the Agreement shall be Forty-five Dollars (\$45) per vehicle towed.

**Section 4.** The Mayor is authorized and directed to execute the Agreement with **FRANCHISEE NAME**.

**Section 5.** This Resolution shall go into effect immediately upon adoption.

**PASSED, APPROVED, AND ADOPTED** this 24<sup>th</sup> day of March, 2014.

\_\_\_\_\_  
Sylvia Ballin, Mayor

**ATTEST:**

\_\_\_\_\_  
Elena G. Chávez, City Clerk

**APPROVED AS TO FORM:**

\_\_\_\_\_  
Rick R. Olivarez, City Attorney

STATE OF CALIFORNIA           )  
COUNTY OF LOS ANGELES    ) ss  
CITY OF SAN FERNANDO        )

**I HEREBY CERTIFY** that the foregoing Resolution was approved and adopted at a regular meeting of the City Council held on the 24<sup>th</sup> day of March, 2014, by the following vote to wit:

**AYES:**

**NOES:**

**ABSENT:**

\_\_\_\_\_  
Elena G. Chávez, City Clerk

**EXHIBIT "A"**  
**CONTRACT NO. 1740**

**FRANCHISE AGREEMENT**  
**FOR**  
**VEHICLE TOWING AND STORAGE SERVICES**  
**BETWEEN**  
**THE CITY OF SAN FERNANDO**  
**AND**  
**FRANCHISEE NAME**  
**DATED \_\_\_\_\_, 2014**

## **FRANCHISE AGREEMENT FOR VEHICLE TOWING AND STORAGE SERVICES**

**THIS FRANCHISE AGREEMENT FOR VEHICLE TOWING AND SECURE STORAGE SERVICES (THE “AGREEMENT”) IS MADE AND ENTERED INTO THIS \_\_\_\_ DAY OF \_\_\_\_\_, 2014, BY AND BETWEEN THE CITY OF SAN FERNANDO, A CITY CORPORATION ( “CITY”), AND FRANCHISEE NAME (“FRANCHISEE”).**

### **RECITALS**

A. City has a regular need for the towing and secure storage services called for in the Towing Program described hereinafter. City lacks the facilities, equipment or personnel to perform the services called for in the Towing Program and must contract for such services.

B. Franchisee represents that it possesses the facilities, equipment and personnel necessary to perform the services called for in the Towing Program and is qualified to provide such services.

C. City is authorized to enter into this Agreement pursuant to California Vehicle Code Section 12110 and San Fernando City Code Section 90-911.

NOW, THEREFORE, in consideration of the mutual promises, covenants, and conditions hereinafter contained, City and Franchisee agree as follows:

### **ARTICLE 1. AGREEMENT – PURPOSE AND CONTENTS.**

#### **1.1. Purpose.**

A. City regularly requires motor vehicle towing and storage services, including the removal of abandoned, stolen and damaged vehicles, occasional towing and storage of city owned vehicles and special security for vehicles held for the investigation of crimes, pursuant to various provisions of the California Vehicle and other Codes and the San Fernando City Code. Pursuant to San Fernando City Code Section 90.911, any such services performed on behalf of the City or at the request of the San Fernando Police Department are part of the “Towing Program” of the City.

B. This Agreement is intended to provide for the operation and administration of the Towing Program, and is in the vital interest of the City and is necessary for the health and welfare of its citizens.

C. Pursuant to San Fernando City Code Section 90-911, Franchisee is hereby authorized to perform Towing Program related services (“Towing Services”), as requested by the Chief of Police or his designee, subject to the terms and conditions set forth herein.

## **1.2. Documents Constituting Agreement.**

The City of San Fernando Vehicle Towing and Secure Storage Service Provisions (the “Service Provisions”), is attached hereto as Exhibit A and incorporated herein by this reference. In the event of any conflict between the provisions of the Service Provisions and the provisions of this Agreement, the provisions of this Agreement shall control.

## **ARTICLE 2. AGREEMENT AND TERM.**

### **2.1. Incorporation of Recitals.**

The recitals set forth in full above constitute a material part hereof, and are hereby incorporated by reference as though fully set forth herein.

### **2.2. Award of Agreement.**

City hereby awards Franchisee the non-exclusive right to provide Towing Services, as the same are more particularly described in Section 2.3, pursuant to the terms set forth in this Agreement and any and all applicable provisions of the San Fernando City Code (the “SFCC”). Franchisee shall have, throughout the term of this Agreement, the non-exclusive right to provide Towing Services to City within the corporate boundaries of City as the same now exist, and within any territory City hereafter annexes during such term, except to the extent that Towing Services within such annexed territory would be unlawful or violate the legal rights of another person.

### **2.3. Scope of Services.**

Franchisee shall provide Towing Services and secure storage services as more particularly described in the Services Provisions attached hereto as Exhibit A and incorporated herein by this reference.

### **2.4. Effective Date.**

This Agreement shall be effective on the date that both parties have executed this Agreement, provided that said date is no later than thirty (30) days after the date the City Council, by resolution, approves this Agreement. This Agreement is further contingent upon the filing by Franchisee with the City Clerk of the fully executed Agreement.

### **2.5. Term.**

**2.5.1. Initial Term.** The term of this Agreement shall commence on March 30, 2014 (“Commencement Date”), and shall continue thereafter for five (5) consecutive years. This Agreement shall expire and terminate at 11:59 p.m. on March 29, 2019, unless this Agreement has been renewed for a subsequent term as provided for in Section 2.5.2 of this Agreement or earlier terminated as provided in Section 2.6 herein.



**2.5.2. Renewal Term.** Commencing with the date of execution of this Agreement, City Council may consider a request from the Franchisee to renew this Agreement for an additional five (5) year term. The extension of the term, if exercised by the City Council, is subject to the following:

(a) Franchisee must file with City, at least one-hundred twenty (120) days prior to the expiration of the then current term, a written request for extension citing this provision; and

(b) The City Council, in the reasonable exercise of their discretion, may approve or deny Franchisee's request upon consideration of Franchisee's past conduct under this Agreement and the applicable provisions of the SFCC. Notwithstanding the foregoing, this Agreement shall remain subject to suspension and/or termination during any renewal term pursuant to the provisions set forth in Section 2.6 herein.

## **2.6. Suspension and Termination of Agreement.**

This Agreement may be suspended and/or terminated by the parties before the expiration of the then current term only as follows:

**2.6.1. Suspension and/or Termination by City.** City may suspend and/or terminate this Agreement under any of the following circumstances:

(a) **For Convenience.** City may terminate this Agreement, without cause, at any time by providing Franchisee with one hundred twenty (120) calendar days written notice of City's intent to terminate the Agreement. Upon receipt of such notice from City, Franchisee agrees to cease all work under this Agreement on or before the effective date of such notice. In the event of termination or cancellation of this Agreement by City, due to no fault or failure of performance by Franchisee, Franchisee shall be paid for Towing Services satisfactorily rendered to the last working day the Agreement is in effect, and Franchisee shall have no other claim against City by reason of such termination.

(b) **For Fraud.** City may, in its sole discretion, terminate this Agreement in the event that any of the representations and warranties made by Franchisee in its Proposal or under this Agreement are, or at any time during the term of this Agreement, become materially false or inaccurate. City shall, within thirty (30) calendar days of discovery of fraud or misrepresentation, give notice to Franchisee, in accordance with the procedures of subsection 4.4 of this Agreement, of any suspected materially false or inaccurate representations or warranties made by Franchisee. Franchisee shall have thirty (30) calendar days to provide City with sufficient information showing it has not made any materially false or inaccurate representations or warranties in its Proposal or under this Agreement; absent such information, this Agreement shall be terminated at the conclusion of the 30-day period.

(c) **For Default.** Subject to the limitations hereafter provided, City may terminate this Agreement for cause if Franchisee:

(i) Fails to provide the equipment, services or personnel required by this Agreement, including the Service Provisions;

- (ii) Fails to pay the Franchise Fee in a timely manner;
- (iii) Assigns or transfers this Agreement, any part thereof or any interest therein without the prior written consent of the City; or
- (iv) Otherwise breaches the provisions of this Agreement, the Services Provisions or any related documents.

Notwithstanding the foregoing, City may not exercise its rights pursuant to this paragraph unless and until City provides Franchisee written notice of such default in accordance with the procedures set forth in Section 4.4 herein, and Franchisee fails to cure such default within thirty (30) days of receipt of said notice.

**2.6.2. Termination by Franchisee.** Franchisee may terminate this Agreement, without cause, at any time by providing City with one hundred twenty (120) days written notice of Franchisee's intention to terminate. Said notice of termination shall clearly set forth the effective date of the termination and shall be delivered to City as set forth in Section 4.4 of this Agreement. Upon the effective date of Franchisee's termination of this Agreement, Franchisee shall relinquish any and all rights it may have under this Agreement, and shall relinquish and lose its status as a provider of Towing Services to City. Notwithstanding the foregoing, termination of this Agreement under this provision shall not release Franchisee from any obligations under this Agreement that, by their express terms, survive termination.

## **2.7. Conflicts with San Fernando City Code.**

**2.7.1. Conflicts.** All provisions of the SFCC applicable to the performance of this Agreement are hereby incorporated by reference as though set forth in full, and form part of the terms and conditions of this Agreement. In the event any conflict arises between the terms and conditions of this Agreement and the provisions of the SFCC, the terms of this Agreement shall prevail.

**2.7.2. Application of Amendments.** Should the SFCC be amended, revised, superseded, or otherwise changed after the effective date of this Agreement, in a manner that would materially affect the terms and conditions of this Agreement, said amendment, revision or change shall not apply to this Agreement without Franchisee's written consent.

## **ARTICLE 3. FRANCHISE FEES AND ADMINISTRATION.**

### **3.1. Franchise Fees.**

**3.1.1. Franchise Fees.** Franchisee shall pay to City on a quarterly basis the franchise fees authorized by City Council pursuant to San Fernando City Code Section 90-911 and all resolutions authorized thereby. The Franchise Fee, as of the Commencement Date, is \$45.00 per vehicle towed, as adopted by the City Council in Resolution 7302 on March 30, 2009.

**3.1.2. Franchise Fee Adjustment.** In the event the City Council increases the Franchise Fee, it shall allow a commensurate increase in the rates charged by Franchisee. The

intent of the parties is that any increase in the Franchise Fee be passed through directly to the owners of the towed vehicles. Any change in the rates charged by Franchisee as a result of a change in the Franchise Fee this section 3.1.2 shall require prior approval of the City Council and shall be made pursuant to section 4.12 of this Agreement.

### **3.2. Schedule of Payment.**

**3.2.1. Payment of Franchise Fees.** The first franchise fee payment shall be due April 15, 2014, and shall cover the period from the date of this Agreement until March 31, 2014. Thereafter, the franchise fee shall be payable quarterly, pursuant to the provisions of Section I(Z) of the Service Provisions. Each such payment shall be accompanied by an accounting, substantially in the form attached hereto as Exhibit B, which sets forth the number of vehicles towed during the preceding quarter.

**3.2.2. Effect of Accepting Payment.** No acceptance of any payment by City shall be construed as an accord that the amount is in fact the correct amount, nor shall such acceptance of payment be construed as a release of any claim City may have against Franchisee for any additional sums payable under the provisions of this Agreement. All amounts paid shall be subject to independent audit and recomputation by City. If, after audit, such recomputation indicates a franchise fee underpayment, Franchisee shall pay to City the amount of the underpayment within ten (10) days of receipt of written notice from City that such is the case.

**3.2.3. Remittance.** All franchise fee payments shall be remitted to City at the following address:

Finance Department  
City of San Fernando  
117 Macneil Street  
San Fernando, California 91340

### **3.3. Administration.**

**3.3.1. Designation of Representatives.** Each party shall designate a representative to serve as that party's primary contact for the administration of this Agreement at all times during the term hereof. City hereby designates the Chief of Police or designee as the City Representative. Franchisee hereby designates [REDACTED] as the Franchisee Representative.

**3.3.2. Franchisee Representative.** The Franchisee Representative shall be principally responsible for Franchisee's obligations under this Agreement and shall serve as the principal liaison between Franchisee and City. The Franchisee Representative shall be authorized to act in Franchisee's behalf with respect to the services specified herein. The Franchisee Representative shall remain responsible during the term of this Agreement for directing all activities of Franchisee and devoting sufficient time to personally supervise the services hereunder. Designation of another representative by Franchisee shall not be made without the prior written consent of City. Unless otherwise specified herein, approval of the Franchisee Representative required hereunder shall be deemed the approval of the Franchisee.

**3.3.3. City Representative.** The City Representative shall be the primary contract administrator for City. It shall be the responsibility of the Franchisee Representative to assure that the City Representative is kept informed of the progress of the performance of Towing Services, and Franchisee shall refer any decisions which must be made by City to the City Representative. Unless otherwise specified herein, approval of the City Representative required hereunder shall be deemed the approval of the City.

## **ARTICLE 4. GENERAL PROVISIONS.**

### **4.1. Insurance.**

Franchisee shall, at its sole cost and expense, procure and maintain in full force and effect, throughout the term of this Agreement, inclusive of any renewal term granted by City, insurance that complies with all of the requirements of Section I(K)(1) of the Service Provisions, incorporated hereto by reference.

### **4.2. Indemnification.**

The indemnification provisions set forth under Section I(K)(2) of the Service Provisions are incorporated hereto by reference and shall set forth Franchisee's indemnification duties and obligations under this Agreement.

### **4.3. Assignment or Transfer Prohibited.**

The reputation, capability and identity of Franchisee are important and material factors in the award of this franchise. Accordingly, Franchisee shall not assign, sell, subcontract, or otherwise transfer any of its obligations, rights, benefits, or other interests it may have under this Agreement to any other person or entity without the prior written consent of City to such transfer or assignment. City may, in its sole discretion, withhold consent to any sale, assignment, or other transfer of this Agreement with or without cause, and may solicit new proposals for the Towing Program. City's consent to a transfer or assignment shall neither relieve Franchisee of its obligations under nor alter the terms of this Agreement. For the purposes of this section, the sale, assignment, or other transfer from any person or group of persons collectively having an interest of fifty percent (50%) or more in Franchisee (whether by means of ownership of stock, partnership interests, tenancy, or otherwise) to any other person or entity shall be deemed an assignment subject to the provisions of this section. Any attempted or purported assignment, sale or other transfer by Franchisee without the prior written consent of City shall be null, void and of no effect.

### **4.4. Notices.**

Any notice authorized or required to be given by this Agreement shall, unless otherwise specified in this Agreement, be served by personal delivery or by depositing such notice in the United States mail with first-class postage prepaid, addressed to the person and addresses listed below for each party, unless written notice is provided by either party as to a change of address for that party:

**City:** Chief of Police  
San Fernando Police Department  
910 First Street  
San Fernando, California 91340

*with a copy to:*  
Rick Oliverez, Esq.  
Oliverez Madruga  
1100 South Flower St, Suite 2200  
Los Angeles, California 90015

**Franchisee:** FRANCHISEE CONTACT NAME  
FRANCHISEE COMPANY NAME  
ADDRESS  
CITY, STATE ZIP CODE

For the purposes of this Agreement, notices shall be deemed communicated as follows: (i) Notices delivered personally shall be deemed communicated as of the date of actual receipt; (ii) Notices sent via regular mail (whether by first class mail, registered mail or certified mail) shall be deemed communicated as of three (3) days after deposit thereof in the United States mail, addressed as shown on the addressee's registry or certificate of receipt; and (iii) Notices sent via Federal Express or similar courier service shall be deemed communicated two (2) days after deposit of such notices with Federal Express or similar courier or one of its agents.

#### **4.5. Authority to Enter Agreement.**

City and Franchisee warrant that the individuals who have signed this Agreement have the legal power, right, and authority to enter into this Agreement so as to bind each respective party to perform the obligations and conditions imposed upon each party herein.

#### **4.6. Audit of Franchisee's Books and Accounts.**

In addition to the requirements of Section I(L) of Exhibit A, Franchisee shall make its books and records available to City during regular business hours, upon 24-hours written notice from City, for the purpose of auditing and verifying Franchisees payment of franchise fees and compliance with this Agreement.

#### **4.7. Severability.**

Whenever possible, each and every provision of this Agreement shall be interpreted in such a manner as to be valid under applicable law. If any provision, or portion thereof, of this Agreement, or the application of the same to any person or circumstances, is for any reason held to be invalid or unenforceable by a court of competent jurisdiction, such provision, or portion thereof, shall be severed from this Agreement and shall not affect the validity of the remaining portions of this Agreement. City and Franchisee expressly declare that each would have entered into this Agreement, and each and every section and provision herein, irrespective of the fact that any one or more provisions may be declared invalid or unconstitutional.

#### **4.8. Independent Contractor.**

Franchisee is, and shall at all times remain as to City, a wholly independent contractor. Franchisee shall not, at any time, or in any manner, represent that it or any of its agents or employees are in any manner agents or employees of City. Franchisee shall have no power to incur any debt, obligation, or liability on behalf of City. Neither City nor any of its agents shall have control over the conduct of Franchisee or any of Franchisee's employees, except as set forth in this Agreement. Franchisee agrees to pay all required taxes on amounts paid to Franchisee under this Agreement, and to indemnify and hold City harmless from any and all taxes, assessments, penalties, and interest asserted against City by reason of the independent contractor relationship created by this Agreement. Franchisee shall fully comply with the workers' compensation law regarding Franchisee and its employees. Franchisee further agrees to indemnify and hold City harmless from any failure of Franchisee to comply with applicable workers' compensation laws. City shall have the right to offset against the amount of any compensation due to Franchisee under this Agreement any amount due to City from Franchisee as a result of Franchisee's failure to promptly pay to City any reimbursement or indemnification arising under this Section 4.8.

#### **4.9. No Third Party Beneficiaries.**

This Agreement, its provisions, and its covenants, are for the sole and exclusive benefit of City and Franchisee. No other parties or entities are intended to be, nor shall be considered, beneficiaries of the performance by either party of any of the obligations under this Agreement.

#### **4.10. No Waiver.**

Any failures or delays by City in asserting any of its rights and remedies as to any default shall not operate as a waiver of any default or of any such rights or remedies. Delays by City in asserting any of its rights and remedies shall not deprive City of its right to institute and maintain any actions or proceedings which it may deem necessary to protect, assert, or enforce any such rights or remedies.

#### **4.11. Time of the Essence.**

Time is of the essence in the performance of this Agreement.

#### **4.12. Modification and Amendment.**

This Agreement may not be modified, supplemented, or amended, except by written agreement signed by each of the parties hereto.

#### **4.13. Binding on Successors and Assigns.**

This Agreement, and each and every covenant, obligation, and condition herein, shall be binding on and shall inure to the benefit of the successors and assigns of City and Franchisee.

**4.14. Institution of Legal Actions.**

In addition to any other rights or remedies, either party may institute legal action to cure, correct, or remedy any default, to recover damages for any default, or to obtain any other remedy consistent with the purpose of this Agreement. Such legal actions must be instituted in the Superior Court of the County of Los Angeles, State of California, in any other appropriate court in that County, or in the Federal District Court in the Central District of California.

**4.15. Attorneys' Fees.**

In the event either party brings an action at law or in equity, including any action for declaratory relief, to enforce the provisions of this Agreement against the other party, the prevailing party shall be entitled to recover from the other party reasonable attorneys' fees, costs and expenses incurred in connection with the prosecution or defense of such action which may be set by the Court in the same action or in a separate action brought for that purpose, in addition to any other relief to which the prevailing party may be entitled under law.

**4.16. Applicable Law.**

The laws of the State of California shall govern the interpretation and enforcement of this Agreement.

**4.17. Use of Captions.**

The use of captions to identify the various articles and paragraphs of this Agreement are solely for reference and as a matter of convenience, and in no way bind, emit, or describe the scope or intent of any provision.

**4.18. Interpretation.**

City and Franchisee acknowledge that this Agreement is the product of mutual, arms-length negotiation and drafting, and each party expressly represents and warrants to the other that it has been represented by legal counsel in the negotiation and drafting of this Agreement. Accordingly, the rule of construction which provides that all ambiguities in the document shall be construed against the drafter of that document shall have no application to the interpretation and enforcement of the provisions of this Agreement.

**4.19. Cooperation and Further Acts.**

City and Franchisee hereby agree to execute such other instruments and to do such further acts as may be reasonably required by or necessary to carry out the provisions of this Agreement.

**4.20. Reservation of Rights.**

City and Franchisee expressly reserve all rights that they may possess under the law unless expressly waived herein. By entering into this Agreement, neither City nor Franchisee waives any rights which it now or may later enjoy under applicable law, and City and Franchisee

specifically reserve their rights to take full advantage of any changes in the law during the term of the Franchise.

#### **4.21. Force Majeure**

If either City or Franchisee is unable to perform its duties under this Agreement due to strikes, lock-outs, labor disputes, inability to obtain labor, governmental restrictions, regulations or controls, civil commotion, fire or other casualty, emergency, or any other cause beyond the reasonable control of either City or Franchisee, such non-performing party shall be excused from the performance of its obligation by the other Party, and shall not be in breach of this Agreement, for a period equal to any such prevention, delay or stoppage.

#### **4.22. Incorporation by Reference**

All exhibits attached to this Agreement or documents expressly incorporated by reference shall be deemed incorporated into this Agreement by the individual reference to each such exhibit or document, and all exhibits and documents shall be deemed part of this Agreement as though set forth in full. In the event of any conflict between the express provisions of this Agreement and the provisions of any exhibit or document incorporated herein by reference, the provisions of this Agreement shall prevail.

#### **4.23. Integration.**

This Agreement represents the entire and integrated agreement between City and Franchisee and supersedes any prior negotiations, representations, or agreements, whether written or oral, with respect to the subject matter hereof.

### **ARTICLE 5. FRANCHISEE'S REPRESENTATIONS AND OBLIGATIONS.**

#### **5.1. Personnel.**

Franchisee represents that it has, or shall secure at its own expense, all personnel required to perform the Towing Services contemplated by this Agreement. Franchisee may associate with or employ associates or subcontractors in the performance of the Towing Services upon obtaining the prior written approval of City to such association or subcontract, but shall remain, at all times, primarily responsible for the performance of the Towing Services.

#### **5.2. Governing Requirements.**

Franchisee shall operate its tow service and shall perform all Towing Services required of it under the terms of this Agreement in full compliance with the regulations set forth in this Agreement, including the Service Provisions, and all applicable federal, state and local laws.

#### **5.3. Performance and Operational Standards.**

Franchisee shall perform the Towing Services in accordance with the standards set forth under federal, state and local law and in the Service Provisions. Franchisee shall at all times



comply with such operating standards, noticing requirements and service requirements mandated under Article 1 of Chapter 10 of Division 11 of the California Vehicle Code (Vehicle Code Section 22650 et seq.) including but not limited to those operating standards, noticing requirements and service requirements set forth under Vehicle Code Sections 22655.5(c), 22658, and 22699. The failure to abide by such operating standards, noticing requirements and/or service requirements shall constitute an Event of Default under this Agreement.

#### **5.4. Rates and Charges.**

Rates and charges Franchisee may charge for the removal and storage of vehicles towed by Franchisee in the performance of the towing services contemplated by this Agreement shall not exceed the rates and charges set forth in the Service Provisions.

[Signatures begin on next page]

**ARTICLE 6. SIGNATURES.****6.1. Counterpart Originals.**

This Agreement may be executed in any number of counterparts, each of which so executed shall be deemed an original, but all of which when taken together shall constitute one and the same instrument.

IN WITNESS WHEREOF, City and Franchisee have caused the within Agreement to be duly executed by their respective officers.

CITY OF SAN FERNANDO  
A Municipal Corporation

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_(SEAL)  
City Clerk

**FRANCHISEE: FRANCHISEE NAME**

By:\_\_\_\_\_  
Name:  
Title:

By:\_\_\_\_\_  
Name:  
Title:

APPROVED AS TO FORM:

\_\_\_\_\_  
City Attorney

**EXHIBIT A**

**VEHICLE TOWING AND SECURE STORAGE  
SERVICE PROVISIONS**

## **I. GENERAL PROVISIONS**

### **A. SERVICES TO BE PERFORMED**

The Franchisee shall furnish towing and storage services for vehicles seized, impounded or otherwise caused to be removed from the highways or from public or private property by the San Fernando Police Department (SFPD). Towing services shall include, but not be limited to, removal of wrecked vehicles and debris resulting from accidents, preliminary work necessary to towing, including removal of vehicles from ditches or separation of entangled vehicles, removal of vehicles for criminalistics and/or evidentiary purposes as directed by SFPD personnel, other impoundment of vehicles as directed by SFPD, and necessary service to heavy duty vehicles on the highways.

### **B. CONDUCT**

The Franchisee shall conduct business in an ethical, lawful and orderly manner so as to maintain the confidence of the community. While Franchisee is an independent contractor, each contact it has with the public may reflect upon the City. For that reason, and the inherent potential for conflict in vehicle removal and storage, Franchisee and its employees must maintain a fair, impartial, and reasonable attitude, and perform its duties in a courteous manner. Statements and actions of the Franchisee and its employees must be the result of considered judgment and absent of personal opinion or bias.

The Franchisee, when notified by the Chief of Police or his or her designee of any complaint of discourtesy by the Franchisee's employee(s), shall investigate and respond in writing to the Chief of Police or his or her designee within ten (10) calendar days of receipt of notification of the complaint. Franchisee's response shall include the results of its investigation and, if the complaint is found to be true, what measures the Franchisee took to address said complaint and prevent future complaints on the same issue.

### **C. REGULATION**

The Franchisee shall comply with all applicable, Federal, State and local laws, ordinances, rules and regulations, shall make all reports required by the State of California Vehicle Code, and shall follow all rules or regulations which the SFPD may prescribe governing the conduct of Franchisee's operations under the Franchise Agreement.

### **D. COOPERATION**

Tow unit operators shall abide by the lawful decisions of all peace officers and law enforcement employees of the City of San Fernando and shall cooperate in removing and/or in impounding vehicles.

**E. SUPERVISION**

The Franchisee shall comply with all reasonable regulations imposed by the City on the Franchisee's performance pursuant to the Franchise Agreement. The Franchisee shall further make all records, equipment and storage facilities related to Franchisee's performance under the Franchise Agreement available for periodic inspection by the Chief of Police or his or her designee to determine if the garage is in compliance with the rules and regulations of the City. Inspections may occur at any time and Franchisee shall in good faith cooperate with any City inspection of its facilities or equipment to assist the City in verifying compliance with this Agreement, the Service Requirements, other related documents and all State laws governing the performance of tow services.

**F. PRIORITY AND RESPONSE TIME**

The Franchisee shall furnish such services as requested by the SFPD and noted in the Franchise Agreement at any time during the day or night and shall:

1. Give priority to City calls when requested;
2. Maintain sufficient personnel and equipment to provide for a maximum response time of fifteen (15) minutes, except as otherwise provided herein;
3. Notify the SFPD upon receipt of request for tow when a tow unit cannot respond immediately and give an estimated time of arrival;
4. If the Franchisee is unable to respond within the maximum response time and/or there is a potential public safety issue determined by SFPD at the site of the incident that requires immediate removal and/or relocation of a vehicle(s), then the Franchisee's identified subcontractor will be contacted by the Franchisee to immediately assist SFPD and ensure the subject vehicle(s) removal and/or relocation; and
5. The Franchisee shall provide immediate response whenever requested to respond to the scene where a child is locked in a car or other emergency of such type.

**G. ADMINISTRATION**

The SFPD shall administer the Franchise Agreement on behalf of the City and the Franchisee shall abide by the directions and decisions of Police Department personnel at the scene of a call.

**H. SETTLEMENT OF DISPUTES**

Should there be any dispute between the Franchisee and owner of the vehicle over charges made for services rendered under the Franchise Agreement, such dispute shall be decided by the SFPD Chief of Police or his or her designee and the Franchisee shall make no demands upon the owner of the vehicle for a sum in excess of the amount determined to be reasonable by the Chief of

Police or his or her designee. The Chief of Police or his or her designee may hold an administrative hearing if any party to the dispute so requests.

#### **I. CITY NOT LIABLE**

Neither the City nor the SFPD shall be responsible to the Franchisee for payment of towing, removal, or storage charges. The Franchisee shall look to the owner of the vehicle for payment of applicable fees.

#### **J. REPORTS TO BE MADE TO CITY**

The Franchisee shall provide the SFPD on the fifteenth (15th) day of each month with a written list of all vehicles removed or impounded during the past month pursuant to the Franchise Agreement. This list shall include vehicle owner's name and address (if known), vehicle make, license and motor number, and Police DR number. The Franchisee shall also provide at the same time, a list of all vehicles currently on the Franchisee's premises that were removed from a traffic accident site handled by the SFPD. This list shall also include vehicle license number, date of storage, reason for storage, and Police DR number, if applicable. An explanation of each tow requiring an excess of one hour shall be provided. The report shall also contain a list of the tow unit operators that were employed by the Franchisee during any period of that reporting month, the list shall contain the tow unit operator's name, operator's license number, classification, and its expiration date.

Franchisee or his/her designee shall sign the monthly report.

Franchisee shall notify the Chief of Police or his or her designee in writing of any sale or disposal of a formerly stored vehicle or vehicle part to an individual known to the Franchisee designee or his employees as a City employee.

#### **K. INSURANCE AND INDEMNITY REQUIREMENTS**

1. **Insurance:** The Franchisee shall produce and maintain for the duration of the Franchise Agreement the insurance as required in this section. Franchisee shall not commence work under this Agreement until proof of all required insurance has been provided to and accepted by the City. The Franchisee shall file with the SFPD Chief of Police a policy or duly authorized certificate of public liability insurance insuring the City of San Fernando, its officers, agents and employees, against liability. Franchisee shall maintain limits no less than:
  - a. Workers' Compensation Insurance: as required by the State of California, and Franchisee's liability insurance, with limits not less than \$1,000,000 each accident. The workers' compensation policy shall be endorsed to contain a waiver of subrogation in favor of the City for all work performed by the Franchisee under this Agreement.

- b. Garage Liability Insurance: at least as broad as Insurance Services Office (ISO) occurrence Form CA 00 05 with Broadened Coverage - Garage Endorsement (CA 25 14). Such insurance shall include coverage for liability arising out of garage operations with limits not less than \$1,000,000 each accident and \$2,000,000 in aggregate, and automobile liability coverage for owned, hired and non-owned automobiles with limits not less than \$1,000,000 each accident. The insurance shall also include Garagekeepers Liability coverage for each location the Franchisee may utilize to provide service under this contract with limits of not less than \$1,000,000 per location.
- c. As an alternative to the requirements in paragraph b above, Franchisee may provide a combination of Insurance Services Office (ISO) Commercial General Liability coverage (occurrence Form CG 00 01), including coverage for bodily injury, property damage, and personal and advertising injury with coverage for premises and operations (including the use of owned and non-owned equipment), products and completed operations, and contractual liability (including without limitations indemnity obligations under the Contract) with limits of not less than \$1,000,000 per occurrence and \$2,000,000 in aggregate and Insurance Services Office (ISO) Form CA 00 01 covering Automobile Liability, code 1 (any auto, owned, hired and non-owned automobiles or other licensed vehicles) with limits of \$1,000,000 per accident for bodily injury and property damage. The insurance shall also include Garagekeepers Liability coverage for each location the Franchisee may utilize to provide service under this contract with limits of not less than \$1,000,000 per location.
- d. On Hook Physical Damage Liability Insurance with limits not less than \$500,000 per vehicle.
- e. Deductibles or self-insured retentions must be declared to and approved by the City. At the option of the City, either (a) the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects the City, its officers, officials, employees and volunteers or (b) the Franchisee shall provide a financial guarantee satisfactory to the City guaranteeing payment of losses and related investigations, claim administration, and defense expenses.
- f. Other insurance provisions: The policies are to contain, or be endorsed to contain, the following provisions:
  - 1) The Commercial General Liability policy shall be endorsed to provide that the City of San Fernando, its officers, officials, employees, and volunteers are covered as additional insureds with respect to liability arising out of work or operations performed by or on behalf of the Franchisee under the Franchise Agreement. Proof of this coverage must be in the form of an additional insured endorsement to the Franchisee's insurance using ISO CG 20 10 11 85 or its equivalent language. If coverage is provided in the form of a Garage Liability Policy, such policy shall be endorsed to include equivalent additional insured

status to the City of San Fernando, its officers, officials, employees and volunteers.

- 2) For any claims related to this project, the Franchisee's insurance coverage shall be primary insurance as respects the City of San Fernando, its officers, officials, employees, and volunteers. Any insurance or self-insurance maintained by the City, its officers, officials, employees, or volunteers shall be excess of the Franchisee's insurance and shall not contribute with it.
  - 3) Each insurance policy required by this clause shall be endorsed to state that coverage shall not be suspended, voided, reduced in coverage or in limits, or cancelled by either party, except after thirty (30) days' prior written notice by certified mail, return receipt requested, has been given to the City of San Fernando.
- g. Subcontractors: Franchisee shall include all subcontractors as insureds under its policies or require and verify that all subcontractors maintain insurance meeting all the requirements of this Agreement.
- h. Verification of Coverage
- 1) Franchisee shall furnish the City with original certificates and endorsements, including amendatory endorsements, effecting coverage required herein. All certificates and endorsements must be received and approved by the City of San Fernando before work commences under the Franchise Agreement. The City reserves the right to require complete, certified copies of all required insurance policies and endorsements required by these specifications at any time during the term of this contract. Neither the failure of the Franchisee to supply required proof of coverage, nor the failure of the City to approve same shall alter or invalidate the provisions of this contract.
  - 2) The Franchisee shall submit evidence of appropriate replacement or renewal coverage for all required insurance that expires or is cancelled during the term of the Contract. Such evidence shall be provided to the City no later than 15 calendar days prior to the expiration or termination of coverage. If operator fails to maintain the required insurance in full force and effect, all work under this Contract shall be discontinued immediately, and all payments due or that become due to Franchisee shall be withheld until City receives required evidence that coverage has been restored.
- i. Acceptability of Insurers: Insurance is to be placed with insurers with a current A.M. Best's rating of no less than A:VII.
- j. All policies required pursuant to this section shall be submitted to the San Fernando City Attorney for approval as to form.



## 2. Indemnification.

- a. Franchisee agrees to indemnify, defend and hold harmless the City, its elected officials, officers, agents and employees ("Indemnities"), at Franchisee's sole expense, from and against any and all loss, liability, penalties, forfeitures, claims, actions, suits or other legal proceedings of any kind asserted against the City, its elected officials, officers, agents, and employees arising out of the performance of Franchisee, its employees, representatives, agents, and sub operators under this agreement, excepting only such claims or actions which may arise out of sole or active negligence of the City, its elected officials, officers, agents and employees. The defense obligation provided for hereunder shall apply without any advance showing of negligence or wrongdoing by the Franchisee, its employees, and/or authorized sub operators, and/or whenever any claim, action, complaint or suit asserts liability against the City, its elected officials, officers, agents, and employees based upon the work performed by the Franchisee, its employees, and/or authorized sub operators are specifically named or otherwise asserted to be liable. This provision shall supersede and replace all other indemnity provisions contained either in the City's specifications or Franchisee's proposal, which shall be of no force and effect.
- b. The Franchisee's obligation to defend, hold harmless, and indemnify shall not be excused because of the Franchisee's inability to evaluate liability or because the Franchisee evaluates liability and determines that the Franchisee is not liable to the claimant. The Franchisee must respond within thirty (30) days to the tender of a claim for defense and indemnity by the City, unless this time has been extended by the City. If the Franchisee fails to accept or reject a tender of defense and indemnity within thirty (30) days, in addition to any other remedy authorized by law, so much of the money due the Franchisee by virtue of the Franchise Agreement as shall reasonably be considered necessary by the City may be retained by the City until final disposition has been made or the claim or suit for damages, or until the Franchisee accepts or rejects the tender of defense, whichever occurs first.
- c. With respect to third party claims against the Franchisee, the Franchisee waives any and all rights of any type to express or implied indemnity against the Indemnities.
- d. Separate Counsel: The City may elect to have separate legal counsel from Franchisee at any time at its sole discretion, and in such case Franchisee will pay one-half (1/2) of all fees and costs and charges for such separate legal counsel.
- e. Subcontractors: The Franchisee shall require all subcontractors to enter into an Agreement containing the provisions set forth in this subsection K(2) in which Agreement the subcontractor fully indemnifies the City in accordance with this Agreement.
- f. Exception: Notwithstanding Subsections K(2)(a)-(b) above, Franchisee's obligation to indemnify, hold harmless and defend the City, its officers and employees shall not

extend to any loss, liability penalty, claim, damage, action or suit arising or resulting solely from acts or omissions constituting willful misconduct or sole negligence on the part of the City, its officers or employees.

- g. Damage by Franchisee: If Franchisee's employees or subcontractors cause any injury, damage or loss to City property, including by not limited to City streets or curbs, Franchisee shall reimburse City for City's cost of repairing such injury, damage or loss. Such reimbursement is not in derogation of any right of the City to be indemnified by Franchisee for any such injury, damage or loss. With the prior written approval of City, Franchisee may repair the damage at Franchisee's sole cost and expense.
- h. Tort Claims Act: This Agreement shall in no way act to abrogate or waive any immunities available to the City under the Tort Claims Act of the State of California.

#### **L. FRANCHISEE'S RECORDS AND BOOKS; INSPECTIONS AND AUDITS**

Franchisee shall maintain the books and records of each tow or storage as required by Vehicle Code Section 10650 and any other state law or regulation and this Agreement. All records, equipment, and storage facilities shall be open to periodic inspection by the SFPD personnel or its designated representative. Any deficiencies shall be corrected as soon as practicable upon request of the SFPD. Franchisee shall permit and facilitate any inspections or audits that City may require.

Franchisee acknowledges understands and agrees that any and all records provided to the City or otherwise maintained in compliance with Vehicle Code Section 10650 may be subject to production to third-parties under the California Public Records Act (Government Code Section 6250 et seq) and City reserves right to produce such records to the extent City, in its discretion, determines that such records are subject to disclosure.

#### **M. IMPOUND REPORTS**

A Franchisee tow unit operator shall sign and complete the necessary portions of the impounding employee's Impound Report. The impounding employee shall retain the original copy of the Impound Report. Franchisee shall retain a copy of the Impound Report for two years. The garage's copy of the Impound Report shall be used to record the vehicle release information in the appropriate space provided in the Impound Report.

#### **N. NOTIFICATIONS**

The Franchisee's employees while acting within the course of their employment shall cause the appropriate law enforcement agency to be notified without delay whenever they become aware of a possible crime or other activity requiring action by law enforcement personnel. The Franchisee shall notify SFPD in writing on a weekly basis of the following:

1. All vehicles originally impounded by a public agency but that have remained in storage beyond seven calendar days.
2. All vehicles originally impounded with a criminalistics/evidentiary hold, but that have remained in storage with a hold beyond seven calendar days, Franchisee shall notify SFPD on a weekly basis of all vehicles sold during the preceding week in accordance with statutorily established lien procedures.

#### **O. STORAGE**

Storage shall commence at the time the vehicle arrives at the Franchisee's storage facility. Charges for vehicle storage shall be based on the rates established pursuant to section II(C) below. The daily rate extends from midnight to midnight of the following day.

Exceptions:

1. When a release request is made within the first "hour of storage", the storage fee shall be waived.
2. Per SB 887 (1992, Lockyer), when a release request is made within 24 hours, only one days storage shall be charged regardless of the calendar date.
3. When a release request is made between 7 p.m., and 12 a.m., (midnight), one day's storage fee shall be waived providing such release occurs within the mandatory release hours (7 a.m., to 7 p.m.,) of the following day.

#### **P. LIEN ON STORED VEHICLES**

The SFPD personnel who is requesting the impound shall be responsible for establishing that "probable cause" exists to impound the vehicle in question. When "probable cause" is lost prior to a vehicle being removed to a Franchisee facility, no lien shall be attached and no fee shall be charged for the field release of a vehicle to a properly interested person.

#### **Q. DISPUTES AND INJURIES**

The Chief of Police or his or her designee has the authority to settle all disputes arising from actions by the Franchisee, The decision of the Chief of Police or his or her designee shall be binding on all parties involved. Inquiries pertaining to the conduct, practices, and regulation of the Franchisee may be referred to the City of San Fernando Police Department, 910 First Street, San Fernando, California, 91340; (818) 898-1267.

#### **R. CITY VEHICLES**

The Franchisee shall provide, at no cost to City, routine roadside service including, but not limited to, towing service, to all vehicles owned by the City of San Fernando up to and including

one (1) ton rated vehicles at the request of the Chief of Police Chief or his or her designee whenever such vehicles require such service within the City of San Fernando or within five (5) road miles of the corporate limits of the City.

**S. TRAFFIC ACCIDENT SCENE CLEANUP**

At the request of the SFPD, the Franchisee shall dispatch a tow unit to the scene of a traffic accident and shall remove all glass and debris deposited upon the roadway. Franchisee shall provide traffic accident scene cleanup services to City free of charge.

**T. FAX MACHINE**

The Franchisee shall maintain a fax machine or similar transmittal device at all times during the term of the Franchise Agreement.

**U. TOXIC MATERIALS**

City will not knowingly require the Franchisee to pick up, store or dispose of any toxic or hazardous materials, except for those normal fluids associated with motor vehicles.

**V. COST TO CITY**

Unless otherwise provided in the Franchise Agreement, any towing and storage expenses for which the City is financially responsible pursuant to the Franchise Agreement, including towing or storage of city-owned vehicles, shall be billed to the City at no more than 50% of the rate authorized by the Franchise Agreement.

**W. COLLECTION OF FEES**

The Franchisee shall collect all fees (including the Vehicle Release Fee) imposed by the City upon vehicles that the City causes to be towed, stored, or impounded. This money shall be paid to the City on a monthly basis.

**X. PERMITS AND CERTIFICATES**

The Franchisee shall secure and maintain any licenses, permits, or certificates required by Federal, State and local law. The Franchisee shall secure and maintain such City business license as required by San Fernando City Code. In addition, the Franchisee shall keep informed of and comply with the requirements of all Federal, State, county and City laws, ordinances, and regulations applicable to the work performed under the Franchise Agreement.

**Y. BACKGROUND INVESTIGATION AND FEE REQUIRED**

Prior to the award of the Franchise Agreement, the SFPD shall conduct or have conducted a background investigation of the business, its principals, and its tow truck drivers. The Franchisee awarded the Franchise Agreement shall be responsible to notify the SFPD whenever a new driver is assigned to tow requests from SFPD. All new tow drivers shall be subject to background investigation. Franchisee shall provide the names, birth dates and other necessary information on all employees of Franchisee who are performing services under this Agreement sufficient to permit the City to make background checks as required herein. Franchisee shall pay a fee of \$25.00 to the City, as set by City Council Resolution No. 7553, for each tow truck driver's background check. Franchisee shall ensure that all other fees required by any supporting agencies to complete each tow truck driver's background check

**Z. FRANCHISE FEES**

The Franchisee shall pay to the City on a quarterly basis the Franchise Fee authorized by City Council, pursuant to San Fernando City Code Section 90-911 and all resolutions authorized thereby. Pursuant to Resolution No. 7302, adopted by the City Council on March 30, 2009, the Franchise Fee in effect as of the date of this Agreement is \$45.00 per vehicle towed.

The Franchise Fee payment of \$45.00 per vehicle towed shall be paid on a quarterly basis payments received no later than April 15, July 15, October 15, and January 15 of each year. Failure to make Franchise Fee and business license tax payments may be cause for termination of the Franchise Agreement.

## **II. TOWING PROVISIONS**

### **A. PLACE TO WHICH VEHICLES SHALL BE TOWED**

Any vehicle towed pursuant to the Franchise Agreement shall be taken to such place as the owner or driver of the vehicle directs. When impounded by the SFPD it shall be taken to the storage lot designated by SFPD. If neither the owner nor the driver nor SFPD specifies a destination, is unable to do so, or is not at the scene of removal, the Franchisee shall tow the vehicle to Franchisee's Primary Storage Facility. In no case shall Franchisee use coercion or pressure of any kind upon the owner or driver of a vehicle to have the vehicle towed to Franchisee's own storage yard or garage.

### **B. EVIDENCE TO BE SAFEGUARDED**

The Franchisee shall take all reasonable precautions required by the SFPD to avoid damage to any evidence or impounded vehicles such as fingerprints or stains. Vehicles taken into custody that involve such evidence shall be stored in the Investigative Hold Area, as defined hereinafter, and shall be secured from access by unauthorized persons. Vehicles stored for prints shall be protected from dust and dirt or deterioration of evidence by the sun or other elements.

### **C. TOWING AND STORAGE CHARGES; BILLING**

Franchisee shall charge the rates established by Official Police Garages Los Angeles ("OPGLA") for Towing and Storage, as those rates may be amended from time to time. Upon the effective date of any increase in OPGLA's rates for Towing and Storage, Franchisee's rates shall increase to match OPGLA's rates. Such an increase shall not require approval of the City Council and shall occur automatically upon the effective date of the OPGLA rate increase. The foregoing notwithstanding, Franchisee shall provide City with written notice of any increase in the OPGLA rates within seven (7) calendar days from the effective date of such increase. The most up-to-date schedule of rates shall be clearly and conspicuously posted at all of Franchisee facilities so that members of the public are made aware of such rates. The schedule shall also indicate the effective date of such rates and a copy of the schedule shall be provided to any member of the public, including any official or employee of the City upon demand either verbally or in writing.

Towing charges commence at the time a tow unit actually proceeds to a call for service and terminate at the time the tow unit returns to the Primary Storage Facility.

Except as provided by the approved rates herein, no additional charges shall be made for special equipment or service necessary to prepare vehicles for towing.

All bills for towing and storage shall be itemized.

### **III. STORAGE PROVISIONS**

The Franchisee shall provide a total storage capability of not less than 60 vehicles including five (5) vehicles within an enclosed investigative hold area. Based on future needs of the SFPD, the Franchisee shall ensure that they are able to expand total storage capability to 85 vehicles including the five (5) vehicles within an enclosed investigative hold area. The increased vehicle storage capacity can be addressed entirely on a Primary Storage Lot or through the use of Primary Storage Lot and a Secondary Storage Lot.

#### **A. PRIMARY STORAGE LOT**

The Franchisee shall at all times provide and maintain a Primary Storage Facility with a minimum storage capacity of 65 vehicles including an investigative hold area for five (5) vehicles dedicated to the storage of vehicles from SFPD pursuant to the Franchise Agreement. The Primary Storage Facility shall be no more than five (5) miles from the San Fernando Police Department's office building.

The storage lot, or Primary Storage Facility if more than one such lot is maintained, shall be:

1. Immediately adjacent to or contain office facilities.
2. Adequate in size to accommodate all:
  - a. "Hold" vehicles;
  - b. Late model vehicles;
  - c. Specially equipped vehicles; and
  - d. Vehicles to be released immediately to owners.
3. Entirely surfaced with either concrete or asphalt material.
4. Free of holes or areas that are decomposed or broken.
5. Clean and free of litter, debris, or weeds.
6. Include on-site lighting that provides easy visibility to all areas of the lot while eliminating spill over onto neighboring properties.
7. Sized and dimensioned to afford safe access to all vehicles.

**B. INVESTIGATIVE HOLD AREA AND VEHICLES**

The Franchisee shall maintain an area at its Primary Storage Facility for vehicles held for criminalistic and/or evidentiary examinations, which has a minimum vehicle storage capacity of five (5) vehicles. This Investigation Hold Area shall:

1. Have a fully enclosed structure and be capable of providing protection from the natural elements.
2. Be fenced and gated (so as to prohibit entry by unauthorized persons as prescribed by the Chief of Police or his or her designee) with remote access controlled by the dispatcher.
3. All entries shall be documented to identify the vehicle seen, the person entering, and the date and time the person entered the Investigative Hold Area.
4. The Investigative Hold Area's storage capacity shall be capable of holding ten (10) vehicles at any one time.
5. The only persons authorized to enter an Investigative Hold Area are the Franchisee employees and concerned law enforcement employees.
6. Garage employees shall not remove property from vehicles being held for criminalistic and/or evidentiary purposes.
7. Vehicles stored in an Investigative Hold Area shall not be removed from the area until authorized by the responsible SFPD personnel/investigator.
8. Once an investigative hold has been released on a vehicle it shall be immediately removed from the Investigative Hold Area.
9. The date and time of removal and the removing employee's identity shall be recorded on the Franchisee records.

Vehicles being held for Vehicle Code (VC) 22651 (0) (No Current Registration); VC 22651 (P) (Unlicensed Driver); VC 22651 (i) Unpaid Parking Citations; or VC 10751 (Altered Identification Number) (hereafter referred to as "statutory holds") need not be stored in the Investigative Hold Area but shall be stored in the same manner as vehicles available for release, unless there is an additional hold for criminalistic or evidentiary examinations. Garage employees may remove unattached personal property for safekeeping when a vehicle is being held exclusively for statutory hold. Any statutorily held vehicle shall not be available for release until authorized by the concerned governmental agency employee or the Area Vehicle Coordinator.



### **C. SECONDARY STORAGE LOTS**

All Secondary Storage Facilities proposed by the Franchisee shall be inspected and approved by the Chief of Police or his or her designee prior to use. A Secondary Storage Facility is a designated location used by the Franchisee as a yard or lot for the temporary storage of impounded vehicles. All Secondary Storage Facilities shall be within five (5) miles of Franchisee's Primary Storage Facility. All Secondary Storage Facilities must be fenced for maximum security and lighted during the hours of darkness to afford illumination of all stored vehicles. Secondary Storage Facilities shall only be used to store vehicles with appraised values under one thousand dollars (\$1000.00). A Secondary Storage Facility may be used for emergency temporary storage of vehicles with appraised values over one thousand dollars (\$1000.00) with the prior written approval of the Chief of Police or his or her designee, but in such cases, an attendant must be on duty at the facility for security. The location where vehicles are stored within a Secondary Storage Facility shall be accurately recorded on the garage's impound records.

### **D. STORAGE OF VEHICLES**

All vehicles towed or stored by the Franchisee under the Franchise Agreement shall be kept within the Primary or Secondary Storage Lot when under direct supervision. At no time shall such vehicles be parked or stored or left standing on any public street or alley. Undamaged vehicles shall be segregated from wrecked or junk vehicles and shall be kept in the primary lot. All vehicles shall be systematically parked and sufficiently separated to preclude the probability of damage. Unobstructed access shall be provided to all stored vehicles. Vehicles shall be parked and separated to preclude the possibility of damage. Security provisions shall be implemented at all Secondary Storage Facilities to prevent the loss or theft of personal property or vehicle parts. Secondary Storage Facilities shall provide safe access to all stored vehicles and shall be kept clean and free of litter, debris, and weeds. Lighting of such lots shall be adequate to ensure required security of stored vehicles and eliminate light spill over onto neighboring properties. The Franchisee shall provide security to all primary and secondary storage facilities sufficient to reasonably preclude theft or damage to stored vehicles and as hereinafter provided.

### **E. ENCLOSING OF STORAGE AREAS**

Unless otherwise provided by applicable city regulations, all outdoor areas used for storage shall be enclosed with a solid wall, chain link or wrought iron style fence at least six (6) feet in height, having a gate or door of adequate width and equivalent height. The fence shall be covered from public view. The bottom edge of any such fence or wall, including all gates or doors, shall be maintained in such a manner as to prevent unauthorized entry. All wall or fence enclosures shall be maintained in good condition throughout the term of the Franchise Agreement; any damage shall be repaired promptly within twenty-four (24) hours of notice of such damage.

**F. OFFICE**

The office space at the Primary and Secondary Storage Facilities shall be neat in appearance, clean and painted. A waiting area shall be provided for customers with adequate restroom and other facilities for the customers' comfort.

**G. RESPONSIBILITY FOR VEHICLE, ACCESSORIES, AND PERSONAL PROPERTY**

The Franchisee shall be responsible for vehicles and accessories while in Franchisee's possession. The Franchisee shall also be responsible for personal property left in the vehicle at the time possession of that vehicle is taken. All property left in a vehicle should be listed on the California Highway Patrol 180 form. No articles shall be removed without first obtaining written authorization from an SFPD officer. Any articles removed for any reason shall be noted by the authorizing SFPD officer. The Franchisee shall maintain a record of the identity of all persons who have entered a stored vehicle for the purpose of accessing unattached personal property. The record shall also include the date of entry and a description of any property removed. Unattached personal property may be removed for safekeeping by garage employees, but only from available for release and statutorily held vehicles. When the Franchisee's personnel removes unattached personal property for safekeeping from a vehicle, the following shall occur:

1. Record a description of the removed property on the corresponding copy of a garage impound report.
2. Implement controls to inform Franchisee's office personnel responding to public inquiries that personal property has been removed from a vehicle.
3. Cause the property to be individually packaged and identified.
4. Provide a secure location for the storage of the property to preclude loss, theft or damage.
5. Inform properly interested persons that property has been removed and how they may obtain possession of that property.

**H. PROTECTION AND HANDLING OF VEHICLES**

It is the responsibility of the Franchisee to protect all vehicles, vehicle parts and/or attached accessories impounded by peace officers or City law enforcement personnel until such time the vehicles have either been released to properly interested persons or have been disposed of through legal process.

Vehicle parts and/or attached accessories shall not be removed from an impounded vehicle with a criminalistic/evidentiary hold on the vehicle without the prior approval of the concerned law enforcement personnel. The Franchisee's garage employees from other impounded vehicles may remove vehicle parts and/or attached accessories for safekeeping. When the Franchisee's

employee removes vehicle parts and/or attached accessories for safekeeping from a vehicle it shall:

1. Record a description of the removed vehicle parts and/or attached accessories on the corresponding copy of the garage impound report.
2. Implement controls to inform the Franchisee's office personnel responding to public inquiries that vehicle parts and/or attached accessories have been removed from a vehicle.
3. Cause the vehicle parts and/or attached accessories to be individually packaged and identified.
4. Provide a secure location for the storage of the vehicle parts and/or attached accessories to preclude loss, theft or damage.
5. Inform properly interested persons that parts and/or attached accessories have been removed and how they may obtain possession of that property.

The release of impounded vehicles that are available for release shall be the responsibility of the Franchisee. Criminalistic/evidentiary or statutorily held vehicles shall not be available for release until SFPD personnel has given written authorization to the Franchisee.

The Franchisee, at its Primary Storage Facility, shall prepare, maintain, and post in a conspicuous place, clearly visible to the public, a notice outlining procedures and the required documentation necessary for properly interested persons to obtain possession or remove unattached personal property from a stored vehicle and/or to view or photograph a stored vehicle within twenty-four (24) hours of making such a request.

Vehicle inventories, when conducted by Franchisee employees, shall only be conducted within the confines of a storage facility and in the presence of a witnessing employee.

#### **I. RELEASE OF VEHICLES**

A dispatcher shall be responsible for releasing vehicles between the hours of 7 a.m. and 7 p.m., seven (7) days a week, every day of the year and may, at his or her discretion, release vehicles between the hours of 7 p.m. and 7 a.m. Any vehicle impounded in connection with a special event, as designated by the Chief of Police or his or her designee, shall be available for release for a minimum period of four (4) hours following the conclusion of the special event. For the purposes of this provision, "special event" shall include DUI checkpoints, parades, et cetera.

#### **J. REGULATION**

The Franchisee shall comply with all Federal, State and local laws, ordinances, rules and regulations and shall make all reports required by the State of California Vehicle Code and shall

follow all reasonable rules or regulations that the SFPD may, from time to time, prescribe governing the conduct of the Franchisee's operations under the Franchise Agreement.

**K. FRANCHISEE REQUEST TO CHANGE RATES AND CHARGES**

The Franchisee may submit to the Chief of Police a written request for a change of rates. All requests for rate adjustment shall set forth the Franchisee's current rate charges and the proposed charges. Verifiable profit or loss information may be required prior to any rate adjustment. If the City of San Fernando, in its sole discretion, decides to amend the rates for towing and storage of vehicles to a different rate than the OPGLA rates, it shall give the Franchisee written notice of its intention to adopt an amended schedule and negotiate with the Franchisee for a period of no less than 60 days before a new schedule is enacted. Any amended schedule of rates shall be approved by the City Council.

## **IV. STAFFING PROVISION**

### **A. SUFFICIENT PERSONNEL**

The Franchisee shall have sufficient personnel on duty at all times to:

1. Receive calls from the SFPD communications center;
2. Dispatch tow units;
3. Provide security at all storage sites; and,
4. Provide such services as may be required under the Franchise Agreement

### **B. DISPATCHER**

A dispatcher shall be on duty in the Franchisee's office seven (7) days a week, twenty-four (24) hours a day, every day of the year. A dispatcher shall receive calls from SFPD and its communications center, dispatch tow units, provide security for stored vehicles, and perform such other tow related services as may be required by the Chief of Police or his or her designee. A dispatcher shall be responsible for releasing vehicles between the hours of 7 a.m. and 7 p.m., seven (7) days a week, every day of the year and may, at his or her discretion, release vehicles between the hours of 7 p.m. and 7 a.m. Any vehicle impounded in connection with a special event, as designated by the Chief of Police or his or her designee, shall be available for release for a minimum period of four (4) hours following the conclusion of the special event, regardless of the time of day the special event concludes. A dispatcher and/or other Franchisee employees providing service to the public shall wear a nametag/badge with their name and/or have their first name conspicuously imprinted on their uniform. The Franchisee shall be responsible to provide the nametag.

### **C. TIMEKEEPING AND DELAYS**

The Franchisee shall record the following times pertaining to law enforcement and City agency tow service request by means of a time clock:

1. The time that the request for tow service is received;
2. Time that a tow unit is assigned the call for service and given the location of the requested service;
3. The time that a tow unit arrives at the location of requested service; and,
4. The time that a tow unit returns to Franchisee Facility with the vehicle.

The Franchisee shall ensure that a sufficient number of tow units and tow unit operators are available at all times to meet the needs of all SFPD personnel, other law enforcement agencies, and City departments that rely upon it for tow service. Within ten (10) minutes of the receipt of a request for tow service from SFPD or its communications center, an available, unassigned tow unit and operator shall be dispatched and shall immediately proceed to the location of the requested service. The Franchisee shall advise the communications center when a tow unit cannot be dispatched within ten (10) minutes and shall give the reason why the tow unit cannot be dispatched and an estimated time of dispatch. Once dispatched, a tow unit operator shall respond to an assigned call by the most direct and expeditious route.

**EXCEPTION:** Orders to remove abated vehicles or vehicle parts from private property shall be executed by the ordered Franchisee within forty-eight (48) hours of receiving such notification.

#### **D. OPERATORS**

The Franchisee shall employ no person as a tow unit operator until he or she possesses the appropriate class of California driver's license and medical certificate, if required, for the type of tow unit being operated. Tow unit operators shall wear a uniform approved by the Chief of Police or his or her designee whenever they are performing services in response to a call from the City of San Fernando. A nametag/badge identifying the operator by first name shall be worn on the operator's outer most shirt or jacket.

## **V. VEHICLES AND EQUIPMENT PROVISIONS**

### **A. TOW UNITS RADIO EQUIPMENT**

The Franchisee may equip tow units and facilities with radio equipment capable of receiving police calls, police frequency and/or local government frequencies. On those trucks that primarily operate after normal business hours, the Franchisee may also have transmitting capabilities on local government frequencies for emergency contact with SFPD communications center.

### **B. DISPATCHER'S OFFICE RADIO COMMUNICATIONS**

The Franchisee dispatcher's office shall be equipped to receive "police calls". Priority shall be given to calls from SFPD or its communications center. In the event that multiple agency requests for services are received at the same proximate time, the Franchisee dispatcher shall assign response priority to the request of the most urgent nature based upon information the dispatcher has received. The Franchisee tow units may be equipped to monitor "police calls" while acting within the course and scope of their designated responsibilities after obtaining a permit from the Chief of Police or his or her designee.

#### **1. Tow Trucks.**

- a. The Franchisee shall maintain a minimum of two (2) with a minimum 19,500 Gross Vehicle Weight (GVW) manufacturer rated tow trucks with wheel lift capabilities. The main winch(es) shall be either mechanically or hydraulically driven and shall have a single or combined capacity of at least four (4) tons at bare drum or one (1) wrap of cable with a minimum of one hundred feet (100') of cable. Wheel lifts shall be rated at a minimum of 4,000 pounds lift capacity.

Each such tow truck shall be equipped with a snatch block, dollies, one (1) ton floor jack and J/T hook chain assemblies.

The Franchisee shall maintain a minimum of two (2) 19,500 – 26,000 GVW manufacturer rated car carrier. The main winch(es) shall be either mechanically or hydraulically driven and shall have a single or combined capacity of at least four (4) tons at bare drum or one (1) wrap of cable with a minimum of fifty feet (50') of cable.

- b. Official heavy-duty tow units will be requested by SFPD or its communication center when the vehicle to be towed possesses one or more of the following: three or more axles; a gross weight, laden or un-laden, in excess of 10,000 pounds; or a combination of commercial trailers. The Franchisee may subcontract for heavy-duty tow services. The subcontractor shall meet the standards set forth in the Franchise Agreement.

- c. Franchisee shall equip and maintain all tow trucks and other vehicles owned by Franchisee in full compliance with the California Vehicle Code and the California Administrative Code, as the same now require and as they may from time to time be amended in the future, and the Service Provisions, and to obtain and pass an inspection by the California Highway Patrol, Motor Carrier Division for each tow truck.
- d. All trucks used in performing towing services under the Franchise Agreement shall conform to all requirements of the State of California Vehicle Code and shall comply with the following:
  - 1) Truck bodies shall be painted and kept clean and in good repair, free of dents;
  - 2) The cab interior shall be kept clean;
  - 3) The tow truck bed shall be kept clean and equipment shall be properly mounted and maintained;
  - 4) Tail lamps, stop lamps and turn signal lamps with electrical extension cord shall be operable and shall be used on all towed vehicles; and,
  - 5) Each tow vehicle shall carry the following equipment:
    - (a) State approved air tank or air transfer system
    - (b) Flashlight or portable light
    - (c) Floor jack - 1-ton minimum capacity
    - (d) Gasoline container – 2 ½ gallon minimum capacity
    - (e) Lug wrench – 4-way and wrench for foreign cars
    - (f) Water container – 3-gallon minimum capacity
    - (g) Battery booster and cables
    - (h) Axe
    - (i) Sledge
    - (j) Flares
    - (k) Bolt cutters
    - (l) Pry bar



- (m) 25 foot recovery chain
- (n) Trash can and absorbent.

#### **C. TOW TRUCK PARKING**

The Franchisee shall at all times provide sufficient off-street parking spaces for the parking and storage of vehicles and other equipment used in the performance of the Franchise Agreement.

#### **D. TOW UNIT MARKINGS**

Each tow unit shall be marked as required by California Vehicle Section 27907. Lettering shall be at least two and one-half (2 ½) inches, but not in excess of four (4) inches in height. Tow units may be marked with an official seal of the City of San Fernando in a conspicuous place as reviewed and approved by the Chief of Police or his or her designee.

**EXHIBIT B**

**TOWING PROGRAM FRANCHISE FEE**

**FRANCHISEE NAME**

**QUARTERLY STATEMENT**

**CITY OF SAN FERNANDO TOWING PROGRAM**  
**FRANCHISE FEE QUARTERLY STATEMENT**

**FRANCHISEE NAME**

REPORTING PERIOD \_\_\_\_\_

**FEE COMPUTATION**

Based on Customers within City of San Fernando

1. TOTAL NUMBER OF VEHICLES TOWED THIS QUARTER \_\_\_\_\_
2. Franchise Fee (\$45.00 X line 1) \$ \_\_\_\_\_

---

**READ CAREFULLY BEFORE SIGNING**

I hereby certify under penalty of perjury under the laws of the State of California that the above information is correct and the fee calculations are true to the best of my knowledge.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

## TABLE OF CONTENTS

	<u>Page</u>
ARTICLE 1. Agreement – Purpose and Contents .....	2
1.1 Purpose.....	2
1.2. Documents Constituting Agreement.....	3
ARTICLE 2. Agreement and Term .....	3
2.1. Incorporation of Recitals.....	3
2.2. Award of Agreement.....	3
2.3. Scope of Services .....	3
2.4. Effective Date .....	3
2.5. Term.....	3
2.5.1. Initial Term. ....	3
2.5.2. Renewal Term.....	4
2.6. Suspension and Termination of Agreement.....	4
2.6.1. Suspension and/or Termination by City. ....	4
2.6.2. Termination by Franchisee. ....	5
2.7. Conflicts with San Fernando City Code .....	5
2.7.1. Conflicts.....	5
2.7.2. Application of Amendments.....	5
ARTICLE 3. Franchise Fees and Administration.....	5
3.1. Franchise Fees.....	5
3.1.1. Franchise Fees.....	5
3.1.2. Franchise Fee Adjustment.....	5
3.2. Schedule of Payment.....	6
3.2.1. Payment of Franchise Fees. ....	6
3.2.2. Effect of Accepting Payment. ....	6
3.2.3. Remittance. ....	6
3.3. Administration. ....	6
3.3.1. Designation of Representatives.....	6
3.3.2. Franchisee Representative. ....	6
3.3.3. City Representative.....	7
ARTICLE 4. General Provisions .....	7
4.1. Insurance .....	7
4.2. Indemnification .....	7
4.3. Assignment or Transfer Prohibited .....	7
4.4. Notices .....	7
4.5. Authority to Enter Agreement .....	8
4.6. Audit of Franchisee’s Books and Accounts.....	8
4.7. Severability .....	8
4.8. Independent Contractor.....	9
4.9. No Third Party Beneficiaries .....	9
4.10. No Waiver.....	9

4.11. Time of the Essence .....	9
4.12. Modification and Amendment .....	9
4.13. Binding on Successors and Assigns.....	9
4.14. Institution of Legal Actions .....	10
4.15. Attorneys' Fees .....	10
4.16. Applicable Law .....	10
4.17. Use of Captions.....	10
4.18. Interpretation.....	10
4.19. Cooperation and Further Acts .....	10
4.20. Reservation of Rights.....	10
4.21. Force Majeure .....	11
4.22. Incorporation by Reference.....	11
4.23. Integration .....	11
ARTICLE 5. Franchisee's Representations and Obligations .....	11
5.1. Personnel.....	11
5.2. Governing Requirements .....	11
5.3. Performance and Operational Standards.....	11
5.4. Rates and Charges .....	12
ARTICLE 6. Signatures.....	13
6.1. Counterpart Originals.....	13

Contract No. 1608  
ATTACHMENT "B"

**FRANCHISE AGREEMENT**

**FOR**

**VEHICLE TOWING AND STORAGE SERVICES**

**BETWEEN**

**THE CITY OF SAN FERNANDO**

**AND**

**BLACK & WHITE GARAGE, INC.**

**DATED MARCH 30, 2009**

## TABLE OF CONTENTS

	<u>Page</u>
ARTICLE 1. Agreement – Purpose and Contents.....	1
1.1 Purpose.....	1
1.2. Documents Constituting Agreement.....	2
ARTICLE 2. Agreement and Term .....	2
2.1. Incorporation of Recitals.....	2
2.2. Award of Agreement.....	2
2.3. Scope of Services.....	2
2.5. Term.....	2
2.5.1. Initial Term. ....	2
2.5.2. Renewal Term.....	3
2.6. Suspension and Termination of Agreement.....	3
2.6.1. Suspension and/or Termination by City. ....	3
2.6.2. Termination by Franchisee. ....	4
2.7. Conflicts with San Fernando City Code .....	4
2.7.1. Conflicts.....	4
2.7.2. Application of Amendments.....	4
ARTICLE 3. Franchise Fees and Administration.....	4
3.1. Franchise Fees.....	4
3.1.1. Franchise Fees.....	4
3.1.2. Rate Adjustments.....	4
3.2. Schedule of Payment.....	5
3.2.1. Payment of Franchise Fees. ....	5
3.2.2. Effect of Accepting Payment. ....	5
3.2.3. Remittance. ....	5
3.3. Administration. ....	5
3.3.1. Designation of Representatives.....	5
3.3.2. Franchisee Representative. ....	5
3.3.3. City Representative.....	5
ARTICLE 4. General Provisions .....	6
4.1. Insurance .....	6
4.3. Indemnification .....	6
4.3. Assignment or Transfer Prohibited.....	6
4.4. Notices .....	6
4.5. Authority to Enter Agreement .....	7
4.6. Audit of Franchisee’s Books and Accounts.....	7
4.7. Severability .....	7
4.8. Independent Contractor.....	8
4.9. No Third Party Beneficiaries .....	8
4.10. No Waiver .....	8
4.11. Time of the Essence.....	8

4.12. Modification and Amendment .....	8
4.13. Binding on Successors and Assigns.....	8
4.14. Institution of Legal Actions .....	9
4.15. Attorneys' Fees .....	9
4.16. Applicable Law.....	9
4.17. Use of Captions.....	9
4.18. Interpretation.....	9
4.19. Cooperation and Further Acts.....	9
4.20. Reservation of Rights.....	9
4.21. Force Majeure .....	10
4.22. Incorporation by Reference.....	10
4.23. Integration .....	10
ARTICLE 5. Franchisee's Representations and Obligations .....	10
5.1. Personnel.....	10
5.2. Governing Requirements .....	10
5.3. Performance and Operational Standards.....	10
5.4. Rates and Charges.....	11
5.5. Franchisee's General Duties .....	11
ARTICLE 6. Signatures.....	12
6.1. Counterpart Originals.....	12



## **FRANCHISE AGREEMENT FOR VEHICLE TOWING AND STORAGE SERVICES**

This Franchise Agreement for Vehicle Towing and Secure Storage Services (the “Agreement”) is made and entered into this 30<sup>th</sup> day of March, 2009, by and between the City of San Fernando, a municipal corporation ( “City”), and Black and White Garage, Inc., a California Corporation (“Franchisee”).

### **RECITALS**

A. City has a regular need for the towing and secure storage services called for in the Towing Program described hereinafter. City lacks the facilities, equipment or personnel to perform the services called for in the Towing Program and must contract for such services.

B. Franchisee represents that it possesses the facilities, equipment and personnel necessary to perform the services called for in the Towing Program and is qualified to provide such services.

C. City is authorized to enter into this Agreement pursuant to California Vehicle Code Section 12110 and San Fernando City Code Section 90-911.

D. City and Franchisee have previously entered into that certain Franchise Agreement for Vehicle Towing and Secure Storage Services dated February 3, 2003 (the “Prior Agreement”), which Prior Agreement expired by its terms on February 6, 2009. Franchisee has continued to provide towing services to City pursuant to the terms of the Prior Agreement, during the negotiation of this Agreement.

E. The Parties desire to amend the Prior Agreement to adjust the franchise fee and vehicle release fees, and to make other changes. The Parties have determined that the most efficient way to implement the amendment is to enter into this new Agreement, which supercedes the Prior Agreement

NOW, THEREFORE, in consideration of the mutual promises, covenants, and conditions hereinafter contained, City and Franchisee agree as follows:

### **ARTICLE 1. AGREEMENT – PURPOSE AND CONTENTS.**

#### **1.1. Purpose.**

A. City regularly requires motor vehicle towing and storage services, including the removal of abandoned, stolen and damaged vehicles, occasional towing and storage of city owned vehicles and special security for vehicles held for the investigation of crimes, pursuant to various provisions of the California Vehicle and other Codes and the San Fernando

City Code. Pursuant to San Fernando City Code Section 90-911, any such services performed on behalf of the City or at the request of the San Fernando Police Department are part of the "Towing Program" of the City.

B. This Agreement is intended to provide for the operation and administration of the Towing Program, and is in the vital interest of the City and is necessary for the health and welfare of its citizens.

C. Pursuant to San Fernando City Code Section 90-911, Franchisee is hereby authorized to perform Towing Program related services ("Towing Services"), as requested by the Chief of Police or his designee, subject to the terms and conditions set forth herein.

### **1.2. Documents Constituting Agreement.**

The City of San Fernando Vehicle Towing and Secure Storage Service Provisions (the "Service Provisions"), is attached hereto as Exhibit A and incorporated herein by this reference.

## **ARTICLE 2. AGREEMENT AND TERM.**

### **2.1. Incorporation of Recitals.**

The recitals set forth in full above constitute a material part hereof, and are hereby incorporated by reference as though fully set forth herein.

### **2.2. Award of Agreement.**

City hereby awards Franchisee the non-exclusive right to provide Towing Services, as the same are more particularly described in Section 2.3, pursuant to the terms set forth in this Agreement and any and all applicable provisions of the San Fernando City Code (the "City Code"). Franchisee shall have, throughout the term of this Agreement, the non-exclusive right to provide Towing Services to City within the corporate boundaries of City as the same now exist, and within any territory City hereafter annexes during such term, except to the extent that Towing Services within such annexed territory would be unlawful or violate the legal rights of another person.

### **2.3. Scope of Services.**

Franchisee shall provide Towing Services and secure storage services as more particularly described in the Services Provisions attached hereto as Exhibit A and incorporated herein by this reference.

### **2.4. Term.**

**2.4.1. Initial Term.** The term of this Agreement shall commence on March 30, 2009, and shall continue thereafter for five (5) consecutive years. This Agreement shall expire and terminate at 11:59 p.m. on March 29, 2014, unless this Agreement has been renewed for a



subsequent term as provided for in Section 2.5.2 of this Agreement or earlier terminated as provided in Section 2.6 herein.

**2.4.2. Renewal Term.** Commencing with the date of execution of this Agreement, City delegates to the Chief of Police the option to renew this Agreement for an additional five (5) year term. The extension of the term, if exercised by the Chief of Police, is subject to the following:

(a) Franchisee must file with City, at least one-hundred twenty (120) days prior to the expiration of the then current term, a written request for extension citing this provision; and

(b) The Chief of Police, in the reasonable exercise of his discretion, may approve or deny Franchisee's request upon consideration of Franchisee's past conduct under this Agreement and the applicable provisions of the CITY CODE. Notwithstanding the foregoing, this Agreement shall remain subject to suspension and/or termination during any renewal term pursuant to the provisions set forth in Section 2.6 herein.

## **2.5. Suspension and Termination of Agreement.**

This Agreement may be suspended and/or terminated by the parties before the expiration of the then current term only as follows:

**2.5.1. Suspension and/or Termination by City.** City may suspend and/or terminate this Agreement under any of the following circumstances:

(a) **For Convenience.** City may terminate this Agreement, without cause, at any time by providing Franchisee with one hundred twenty (120) calendar days written notice of City's intent to terminate the Agreement. Upon receipt of such notice from City, Franchisee agrees to cease all work under this Agreement on or before the effective date of such notice. In the event of termination or cancellation of this Agreement by City, due to no fault or failure of performance by Franchisee, Franchisee shall be paid for Towing Services satisfactorily rendered to the last working day the Agreement is in effect, and Franchisee shall have no other claim against City by reason of such termination.

(b) **For Fraud.** City may, in its sole discretion, terminate this Agreement in the event that any of the representations and warranties made by Franchisee in this Agreement are, or at any time during the term of this Agreement, become materially false or inaccurate.

(c) **For Default.** Subject to the limitations hereafter provided, City may terminate this Agreement for cause if Franchisee:

- (i) Fails to provide the equipment, services or personnel required by this Agreement, including the Service Provisions;
- (ii) Fails to pay the Franchise Fee in a timely manner;

- (iii) Assigns or transfers this Agreement, any part thereof or any interest therein without the prior written consent of the City; or
- (iv) Otherwise breaches the provisions of this Agreement and related documents.

Notwithstanding the foregoing, City may not exercise its rights pursuant to this paragraph unless and until City provides Franchisee written notice of such default in accordance with the procedures set forth in Section 4.4 herein, and Franchisee fails to cure such default within thirty (30) days of receipt of such notice.

**2.5.2. Termination by Franchisee.** Franchisee may terminate this Agreement, without cause, at any time by providing City with one hundred twenty (120) days written notice of Franchisee's intention to terminate. The notice of termination shall clearly set forth the effective date of the termination and shall be delivered to City as set forth in Section 4.4 of this Agreement. Upon the effective date of Franchisee's termination of this Agreement, Franchisee shall relinquish any and all rights it may have under this Agreement, and shall relinquish and lose its status as a provider of Towing Services to City. Notwithstanding the foregoing, termination of this Agreement under this provision shall not release Franchisee from any obligations under this Agreement that, by their express terms, survive termination.

## **2.6. Conflicts with San Fernando City Code.**

**2.6.1. Conflicts.** All provisions of the CITY CODE applicable to the performance of this Agreement are hereby incorporated by reference as though set forth in full, and form part of the terms and conditions of this Agreement.

**2.6.2. Application of Amendments.** Should the CITY CODE be amended, revised, superseded, or otherwise changed after the effective date of this Agreement, in a manner that would materially affect the terms and conditions of this Agreement, the amendment, revision or change shall not apply to this Agreement without Franchisee's written consent.

## **ARTICLE 3. FRANCHISE FEES AND ADMINISTRATION.**

### **3.1. Franchise Fees.**

**3.1.1. Franchise Fees.** Franchisee shall pay to City on a quarterly basis the franchise fees authorized by City Council pursuant to San Fernando City Code Section 90-911 and all resolutions authorized thereby. Pursuant to Resolution No. 7302, adopted by the City Council on March 30, 2009, the Franchise Fee in effect as of the date of this Agreement is \$45.00 per vehicle towed.

**3.1.2. Rate Adjustments.** In the event the City Council increases the Franchise Fee, it shall allow a commensurate increase in the rates charged by Franchisee. The intent of the parties is that any increase in the Franchise Fee be passed through directly to the owners of the towed vehicles.

### **3.2. Schedule of Payment.**

**3.2.1. Payment of Franchise Fees.** The first franchise fee payment shall be due July 15, 2009, and shall cover the period from the date of this Agreement until June 30, 2009. Thereafter, the franchise fee shall be payable quarterly, on or before the 15th day of the month following the end of each preceding calendar quarter. Each such payment shall be accompanied by an accounting, substantially in the form attached hereto as Exhibit B, which sets forth the number of vehicles towed during the preceding quarter.

**3.2.2. Effect of Accepting Payment.** No acceptance of any payment by City shall be construed as an accord that the amount is in fact the correct amount, nor shall such acceptance of payment be construed as a release of any claim City may have against Franchisee for any additional sums payable under the provisions of this Agreement. All amounts paid shall be subject to independent audit and recomputation by City. If, after audit, such recomputation indicates a franchise fee underpayment, Franchisee shall pay to City the amount of the underpayment within ten (10) days of receipt of written notice from City that such is the case.

**3.2.3. Remittance.** All franchise fee payments shall be remitted to City at the following address:

Finance Department  
City of San Fernando  
117 Macneil Street  
San Fernando, California 91340

### **3.3. Administration.**

**3.3.1. Designation of Representatives.** Each party shall designate a representative to serve as that party's primary contact for the administration of this Agreement at all times during the term hereof. City hereby designates the Chief of Police or designee as the City Representative. Franchisee hereby designates Bart Torres as the Franchisee Representative.

**3.3.2. Franchisee Representative.** The Franchisee Representative shall be principally responsible for Franchisee's obligations under this Agreement and shall serve as the principal liaison between Franchisee and City. The Franchisee Representative shall be authorized to act in Franchisee's behalf with respect to the services specified herein. The Franchisee Representative shall keep the City Representative informed of the progress of the performance of Towing Services, and Franchisee shall refer any decisions that must be made by City to the City Representative. The Franchisee Representative shall remain responsible during the term of this Agreement for directing all activities of Franchisee and devoting sufficient time to personally supervise the services hereunder. Designation of another representative by Franchisee shall not be made without the prior written consent of City. Unless otherwise specified herein, any approval of Franchisee required hereunder shall mean the approval of the Franchisee Representative.

**3.3.3. City Representative.** The City Representative shall be the primary contract administrator for City. Unless otherwise specified herein, any approval of City required hereunder shall mean the approval of the City Representative.

## **ARTICLE 4. GENERAL PROVISIONS.**

### **4.1. Insurance.**

Franchisee shall, at its sole cost and expense, procure and maintain in full force and effect, throughout the term of this Agreement, inclusive of any renewal term granted by City, insurance that complies with all of the requirements of Paragraph 11 of the Service Provisions. Prior to performing any services pursuant to this Agreement, Franchisee shall provide proof of insurance in a form reasonably acceptable to the City Clerk.

### **4.2. Indemnification.**

Franchisee shall defend, indemnify and hold harmless City, its officers, agents, and employees, from and against any and all losses, damages, costs, charges, and expenses of whatsoever kind and nature, including attorney's fees, which the City, its officers, agents, and employees may at any time sustain or incur as a result of the privileges herein granted, or any activity by Franchisee, his agents, or employees, or by reason of the performance of this Agreement on the part of the Franchisee.

### **4.3. Assignment or Transfer Prohibited.**

The reputation, capability and identity of Franchisee are important and material factors in the award of this franchise. Accordingly, Franchisee shall not assign, sell, subcontract, or otherwise transfer any of its obligations, rights, benefits, or other interests it may have under this Agreement to any other person or entity without the prior written consent of City to such transfer or assignment. City may, in its sole discretion, withhold consent to any sale, assignment, or other transfer of this Agreement with or without cause, and may solicit new proposals for the Towing Program. City's consent to a transfer or assignment shall neither relieve Franchisee of its obligations under nor alter the terms of this Agreement. For the purposes of this section, the sale, assignment, or other transfer from any person or group of persons collectively having an interest of fifty percent (50%) or more in Franchisee (whether by means of ownership of stock, partnership interests, tenancy, or otherwise) to any other person or entity shall be deemed an assignment subject to the provisions of this section. Any attempted or purported assignment, sale or other transfer by Franchisee without the prior written consent of City shall be null, void and of no effect.

### **4.4. Notices.**

Any notice authorized or required to be given by this Agreement shall, unless otherwise specified in this Agreement, be served by personal delivery or by depositing such notice in the United States mail with first-class postage prepaid, addressed to the person and addresses listed below for each party, unless written notice is provided by either party as to a change of address for that party:

**City:** Chief of Police  
San Fernando Police Department  
910 First Street  
San Fernando, California 91340

*with a copy to:*  
Michael Estrada, Esq.  
Richards, Watson & Gershon  
355 South Grand Avenue, 40<sup>th</sup> Floor  
Los Angeles, California 90071

**Franchisee:** Black & White Garage, Inc.  
P.O. Box 330189  
Pacoima, California 991331  
Attn: Bart Torres, Chief Executive Officer

For the purposes of this Agreement, notices shall be deemed communicated as follows: (i) Notices delivered personally shall be deemed communicated as of the date of actual receipt; (ii) Notices sent via regular mail (whether by first class mail, registered mail or certified mail) shall be deemed communicated as of three (3) days after deposit thereof in the United States mail, addressed as shown on the addressee's registry or certificate of receipt; and (iii) Notices sent via Federal Express or similar courier service shall be deemed communicated two (2) days after deposit of such notices with Federal Express or similar courier or one of its agents.

#### **4.5. Authority to Enter Agreement.**

City and Franchisee warrant that the individuals who have signed this Agreement have the legal power, right, and authority to enter into this Agreement so as to bind each respective party to perform the obligations and conditions imposed upon each party herein.

#### **4.6. Audit of Franchisee's Books and Accounts.**

Franchisee shall make its books and records available to City during regular business hours, upon 24-hours written notice from City, for the purpose of auditing and verifying Franchisees payment of franchise fees and compliance with this Agreement.

#### **4.7. Severability.**

Whenever possible, each and every provision of this Agreement shall be interpreted in such a manner as to be valid under applicable law. If any provision, or portion thereof, of this Agreement, or the application of the same to any person or circumstances, is for any reason held to be invalid or unenforceable by a court of competent jurisdiction, such provision, or portion thereof, shall be severed from this Agreement and shall not affect the validity of the remaining portions of this Agreement. City and Franchisee expressly declare that each would have entered into this Agreement, and each and every section and provision herein, irrespective of the fact that any one or more provisions may be declared invalid or unconstitutional.

#### **4.8. Independent Contractor.**

Franchisee is, and shall at all times remain as to City, a wholly independent contractor. Franchisee shall not, at any time, or in any manner, represent that it or any of its agents or employees are in any manner agents or employees of City. Franchisee shall have no power to incur any debt, obligation, or liability on behalf of City. Neither City nor any of its agents shall have control over the conduct of Franchisee or any of Franchisee's employees, except as set forth in this Agreement. Franchisee agrees to pay all required taxes on amounts paid to Franchisee under this Agreement, and to indemnify and hold City harmless from any and all taxes, assessments, penalties, and interest asserted against City by reason of the independent contractor relationship created by this Agreement. Franchisee shall fully comply with the workers' compensation law regarding Franchisee and its employees. Franchisee further agrees to indemnify and hold City harmless from any failure of Franchisee to comply with applicable workers' compensation laws. City shall have the right to offset against the amount of any compensation due to Franchisee under this Agreement any amount due to City from Franchisee as a result of Franchisee's failure to promptly pay to City any reimbursement or indemnification arising under this Section 3.7.

#### **4.9. No Third Party Beneficiaries.**

This Agreement, its provisions, and its covenants, are for the sole and exclusive benefit of City and Franchisee. No other parties or entities are intended to be, nor shall be considered, beneficiaries of the performance by either party of any of the obligations under this Agreement.

#### **4.10. No Waiver.**

Any failures or delays by City in asserting any of its rights and remedies as to any default shall not operate as a waiver of any default or of any such rights or remedies. Delays by City in asserting any of its rights and remedies shall not deprive City of its right to institute and maintain any actions or proceedings which it may deem necessary to protect, assert, or enforce any such rights or remedies.

#### **4.11. Time of the Essence.**

Time is of the essence in the performance of this Agreement.

#### **4.12. Modification and Amendment.**

This Agreement may not be modified, supplemented, or amended, except by written agreement signed by each of the parties hereto.

#### **4.13. Binding on Successors and Assigns.**

This Agreement, and each and every covenant, obligation, and condition herein, shall be binding on and shall inure to the benefit of the successors and assigns of City and Franchisee.



**4.14. Institution of Legal Actions.**

In addition to any other rights or remedies, either party may institute legal action to cure, correct, or remedy any default, to recover damages for any default, or to obtain any other remedy consistent with the purpose of this Agreement. Such legal actions must be instituted in the Superior Court of the County of Los Angeles, State of California, in any other appropriate court in that County, or in the Federal District Court in the Central District of California.

**4.15. Attorneys' Fees.**

In the event either party brings an action at law or in equity, including any action for declaratory relief, to enforce the provisions of this Agreement against the other party, the prevailing party shall be entitled to recover from the other party reasonable attorneys' fees, costs and expenses incurred in connection with the prosecution or defense of such action which may be set by the Court in the same action or in a separate action brought for that purpose, in addition to any other relief to which the prevailing party may be entitled under law.

**4.16. Applicable Law.**

The laws of the State of California shall govern the interpretation and enforcement of this Agreement.

**4.17. Use of Captions.**

The use of captions to identify the various articles and paragraphs of this Agreement are solely for reference and as a matter of convenience, and in no way bind, emit, or describe the scope or intent of any provision.

**4.18. Interpretation.**

City and Franchisee acknowledge that this Agreement is the product of mutual, arms-length negotiation and drafting, and each party expressly represents and warrants to the other that it has been represented by legal counsel in the negotiation and drafting of this Agreement. Accordingly, the rule of construction which provides that all ambiguities in the document shall be construed against the drafter of that document shall have no application to the interpretation and enforcement of the provisions of this Agreement.

**4.19. Cooperation and Further Acts.**

City and Franchisee hereby agree to execute such other instruments and to do such further acts as may be reasonably required by or necessary to carry out the provisions of this Agreement.

**4.20. Reservation of Rights.**

City and Franchisee expressly reserve all rights that they may possess under the law unless expressly waived herein.

#### **4.21. Force Majeure**

If either City or Franchisee is unable to perform its duties under this Agreement due to strikes, lock-outs, labor disputes, inability to obtain labor, governmental restrictions, regulations or controls, civil commotion, fire or other casualty, emergency, or any other cause beyond the reasonable control of either City or Franchisee, such non-performing party shall be excused from the performance of its obligation by the other Party, and shall not be in breach of this Agreement, for a period equal to any such prevention, delay or stoppage.

#### **4.22. Incorporation by Reference**

All exhibits attached to this Agreement or documents expressly incorporated by reference shall be deemed incorporated into this Agreement by the individual reference to each such exhibit or document, and all exhibits and documents shall be deemed part of this Agreement as though set forth in full. In the event of any conflict between the express provisions of this Agreement and the provisions of any exhibit or document incorporated herein by reference, the provisions of this Agreement shall prevail.

#### **4.23. Integration.**

This Agreement represents the entire and integrated agreement between City and Franchisee and supersedes any prior negotiations, representations, or agreements, whether written or oral, with respect to the subject matter hereof.

### **ARTICLE 5. FRANCHISEE'S REPRESENTATIONS AND OBLIGATIONS.**

#### **5.1. Personnel.**

Franchisee represents that it has, or shall secure at its own expense, all personnel required to perform the Towing Services contemplated by this Agreement. Franchisee may associate with or employ associates or subcontractors in the performance of the Towing Services upon obtaining the prior written approval of City to such association or subcontract, but shall remain, at all times, primarily responsible for the performance of the Towing Services.

#### **5.2. Governing Requirements.**

Franchisee shall operate its tow service and shall perform all Towing Services required of it under the terms of this Agreement in full compliance with the regulations set forth in this Agreement, including the Service Provisions, and all applicable federal, state and local laws.

#### **5.3. Performance and Operational Standards.**

Franchisee shall perform the Towing Services in accordance with the standards set forth in the Service Provisions.

**5.4. Rates and Charges.**

Rates and charges Franchisee may charge for the removal and storage of vehicles towed by Franchisee in the performance of the towing services contemplated by this Agreement shall not exceed the rates and charges set forth in the schedule approved and adopted by the City Council.

**5.5. Franchisee's General Duties.**

Franchisee shall:

a. In response to all requests for service, arrive at the scene of the requested tow within fifteen (15) minutes of the time that the Police Department notifies the Franchisee of the tow request.

b. Provide security and management of towing, storage and other functions required in the Service Provisions, and particularly to provide management systems capable of implementing the towing, storage or release of any vehicle on a 24-hour basis.

c. Equip and maintain all tow trucks and other vehicles owned by Franchisee in full compliance with the California Vehicle Code and the California Administrative Code, as the same now require and as they may from time to time be amended in the future, and the Service Provisions, and to obtain and pass an inspection by the California Highway Patrol, Motor Carrier Division for each tow truck.

d. Provide the names, identification and other information on all employees of Franchisee who are performing services under this Agreement sufficient to permit the City to make background checks as required herein.

e. Maintain the books and records of each tow or storage as required by Vehicle Code Section 10650 and any other state law or regulation and this Agreement.

f. Permit and facilitate any inspections or audits that City may require.

[Signatures begin on next page]

**ARTICLE 6. SIGNATURES.****6.1. Counterpart Originals.**

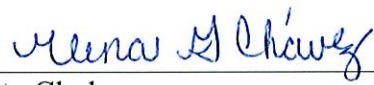
This Agreement may be executed in any number of counterparts, each of which so executed shall be deemed an original, but all of which when taken together shall constitute one and the same instrument.

IN WITNESS WHEREOF, City and Franchisee have caused the within Agreement to be duly executed by their respective officers.

CITY OF SAN FERNANDO  
A Municipal Corporation

  
\_\_\_\_\_  
Mayor

ATTEST:

  
\_\_\_\_\_  
City Clerk

FRANCHISEE: BLACK & WHITE  
GARAGE, INC.

  
By: \_\_\_\_\_

Name: BART TORRES

Title: PRESIDENT / CEO

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

APPROVED AS TO FORM:

  
\_\_\_\_\_  
City Attorney

**EXHIBIT A**

**VEHICLE TOWING AND SECURE STORAGE  
SERVICE PROVISIONS**

## CONTENTS

<b>I.</b>	<b><u>GENERAL PROVISIONS</u></b>	<b>1</b>
1.	Services to be Performed .....	1
2.	Conduct .....	1
3.	Regulation .....	1
4.	Cooperation .....	2
5.	Supervision .....	2
6.	Priority and Response Time .....	2
7.	Administration .....	2
8.	Settlement of Disputes .....	2
9.	City Not Liable.....	3
10.	Reports to be Made to City .....	3
11.	Indemnity and Insurance Requirements .....	4
12.	Contractor's Records, etc. Open to Inspection .....	7
13.	Impound Reports.....	7
14.	Notifications.....	7
15.	Storage .....	7
16.	Impound Hearings.....	8
17.	Lien on Stored Vehicles.....	8
18.	City Vehicles.....	8
19.	Traffic Accident Scene Cleanup .....	8
20.	Fax Machine.....	8
21.	Toxic Materials .....	8
22.	Cost to City .....	9
23.	Collection of Fees .....	9
24.	Permits, and Certificates .....	9
25.	Background Investigation and Fee Required .....	9
26.	Franchise Fees.....	9
<b>II.</b>	<b><u>TOWING PROVISIONS</u></b>	<b>10</b>
27.	Place to Which Vehicles Shall be Towed .....	10
28.	Evidence to be Safeguarded .....	10
29.	Removal Charges .....	10
<b>III.</b>	<b><u>STORAGE PROVISIONS</u></b>	<b>11</b>
30.	Storage Lot(s).....	11
31.	Primary Storage Lot .....	11
32.	Investigative Hold Area and Vehicles.....	11
33.	Secondary Storage Lots.....	12
34.	Storage of Vehicles .....	13
35.	Enclosing of Storage Areas.....	13
36.	Office .....	14
37.	Body and Fender Repairs .....	14

## VEHICLE TOWING AND SECURE STORAGE SERVICE PROVISIONS

Page 24 of 24

38.	Responsibility for Vehicle, Accessories, and Personal Property .....	14
39.	Protection and Handling of Vehicles .....	15
40.	Release of Vehicles.....	16
41.	Authorized Rates and Charges .....	16
<b>IV.</b>	<b><u>STAFFING PROVISIONS</u></b>	<b>17</b>
42.	Sufficient Personnel .....	17
43.	Dispatcher .....	17
44.	Timekeeping and Delays.....	17
45.	Operators.....	18
<b>V.</b>	<b>VEHICLES AND EQUIPMENT PROVISIONS</b>	<b>19</b>
46.	Tow Units Radio Equipment .....	19
47.	Dispatcher's Office Radio Communications.....	19
48.	Tow Truck Parking .....	21
49.	Tow Unit Markings.....	21

**CITY OF SAN FERNANDO****VEHICLE TOWING AND SECURE STORAGE SERVICE PROVISIONS****I. GENERAL PROVISIONS****1. Services to be Performed**

Contractor shall furnish towing and storage services for vehicles seized, impounded or otherwise caused to be removed from the highways or from public or private property by the San Fernando Police Department (SFPD). Towing services shall include but not be limited to, removal of wrecked vehicles and debris resulting from accidents, preliminary work necessary to towing, including removal of vehicles from ditches or separation of entangled vehicles, and necessary service to heavy duty vehicles on the highways.

**2. Conduct**

Contractor shall conduct business in an ethical and orderly manner so as to maintain the confidence of the community. While Contractor is an independent contractor, each contact it has with the public may reflect upon the City. For that reason, and the inherent potential for conflict in vehicle removal and storage, Contractor and his/her employees shall maintain a fair, impartial, and reasonable attitude, and perform his duties in a courteous manner. The Contractor's and his/her employees' statements and actions shall be the result of considered judgment and absent of personal opinion or bias.

The Contractor, when notified by the Chief of Police or his/her designee of any complaint of discourtesy by an employee of Contractor, shall investigate and respond in writing to the Chief of Police within ten (10) calendar days of receipt of notification of the complaint. The Contractor's response shall include the results of his investigation and, if the complaint is found to be true, what measures the Contractor took to prevent future complaints.

**3. Regulation**

Contractor shall comply with all applicable laws, including state laws and local ordinances, shall make all reports required by the California Vehicle Code, and shall follow all reasonable rules or regulations which the SFPD may prescribe governing the conduct of Contractor's operations under this agreement.



**VEHICLE TOWING AND SECURE STORAGE SERVICE PROVISIONS**

Page 2 of 24

**4. Cooperation**

Tow unit operators shall abide by the lawful decisions of all SFPD personnel and shall cooperate in removing and/or in impounding vehicles.

**5. Supervision**

Contractor is subject by law to the regulatory powers of the City, and all relevant records, equipment and storage facilities are subject to periodic inspection by the Chief of Police or his/her designee to determine if the Contractor's storage lots are in compliance with the rules and regulations of the City.

**6. Priority and Response Time**

Contractor shall furnish services under these Service Provisions promptly and at any time during the day or night, and when called by the SFPD and shall:

1. Give priority to City calls, unless, in the event that multiple agency requests for services are received at the same proximate time, Contractor shall assign response priority to the request of the most urgent nature based upon information received;
2. Maintain sufficient personnel and equipment to provide for a maximum response time of fifteen (15) minutes, except as otherwise provided herein;
3. Notify the SFPD upon receipt of request for tow when a tow unit cannot respond immediately and give an estimated time of arrival; and
4. Immediately responds when called to a scene where a child is locked in a car or other similar emergency.

**7. Administration**

The SFPD shall administer this Agreement on behalf of the City and Contractor shall abide by the directions and decisions of SFPD personnel at the scene of a call.

**8. Settlement of Disputes**

The Chief of Police of SFPD or his/her representative shall settle all disputes between Contractor and an owner of a vehicle arising from fees charged or actions made while rendering services under these Service Provisions. Contractor shall make no demands upon the owner of a vehicle for a sum in excess of the amount the Chief of Police or his/her representative determines to be reasonable. The decision of the

## VEHICLE TOWING AND SECURE STORAGE SERVICE PROVISIONS

Page 3 of 24

Chief of Police or designee shall be binding on all parties involved. The Chief of Police or his/her representative may hold an administrative hearing if any party to the dispute so requests.

Inquiries pertaining to the conduct, practices, and regulation of the Contractors may be referred to the San Fernando Police Department, 910 First Street, San Fernando, California, 91340; (818) 898-1267.

### 9. City Not Liable

Neither the City nor the SFPD shall be responsible to the Contractor for payment of towing, removal, or storage charges. Contractor shall look to the owner of the vehicle for payment.

### 10. Reports to be Made to City

#### 1. Monthly Reports

Contractor shall provide the SFPD on the fifteenth (15th) day of each month with a written list of: (1) all vehicles impounded during the past month; (2) all vehicles currently on Contractor's premises which were removed from a traffic accident site handled by the SFPD; and (3) the tow unit operators employed by the Contractor during any period of the reporting month. This list of impounded vehicles shall include vehicle owner's name and address (if known), vehicle make, license and motor number, and Police DR number. This list vehicles removed from traffic accident sites shall include vehicle license number, date of storage, reason for storage, and Police DR number, if applicable. The list of tow unit operators shall contain the tow unit operator's name, and license number, classification and expiration date.

Contractor shall provide an explanation of each tow requiring an excess of one hour.

Contractor or his/her designee shall sign the monthly report.

#### 2. Weekly Reports

Contractor shall provide SFPD on a weekly basis with a written report of all vehicles:

- a. Originally impounded by a public agency but that have remained in storage beyond seven (7) calendar days.

## VEHICLE TOWING AND SECURE STORAGE SERVICE PROVISIONS

Page 4 of 24

- b. Originally impounded with a criminalistics/evidentiary hold, but that have remained in storage beyond seven (7) calendar days.
  - c. Sold during the preceding week in accordance with statutorily approved lien procedures.
3. Miscellaneous Reports

Contractor shall notify the Chief of Police or his/her designee in writing of any sale or disposal of a stored vehicle or vehicle part to an individual known to Contractor or his/her as a City employee within ten (10) days of the sale or disposal.

### 11. Indemnity and Insurance Requirements

- 1. Contractor shall indemnify and hold harmless the City, its officer, agents, and employees, from and against any and all losses, damages, costs, charges, and expenses of whatsoever kind and nature, including attorney's fees, which the City, its officers, agents, and employees may at any time sustain or incur as a result of the privileges herein granted, or any activity by Contractor, his agents, or employees, or by reason of the performance of this Agreement on the part of the Contractor.
- 2. Contractor shall, at its own cost, provide insurance as described herein and ensure that all subcontractors provide insurance as described herein. Insurance shall include the following (or broader) coverage:
  - a. Commercial General Liability Coverage. Commercial General Liability coverage "occurrence" with minimum limits of \$1,000,000 per occurrence and \$2,000,000 per aggregate.
  - b. Business Auto Coverage. Automobile liability coverage, including hired and non-owned automobile liability with a minimum limit of \$1,000,000 per accident.
  - c. Workers' Compensation and Employers Liability. Workers' compensation insurance complying with California workers' compensation laws, including statutory limits for workers' compensation and Employer's Liability limits of \$1,000,000 per accident or disease.
  - d. Deductibles and Self-Insured Retentions. If Contractor's existing coverage includes a deductible or self-insured retention, the deductible or self-insured retention must be declared to and approved

## VEHICLE TOWING AND SECURE STORAGE SERVICE PROVISIONS

Page 5 of 24

by the City. At the option of the City, Contractor either: reduce or eliminate such deductibles or self-insured retentions as respects the City, its officers, officials, employees and volunteers; or the procure a bond guaranteeing payment of losses and related investigations, claim administration and defense expenses.

- e. Other Insurance Provisions. The policies are to contain, or be endorsed to contain, the following provisions:

1) Commercial General Liability Coverage.

- a) City, its officers, officials, employees and volunteers shall be covered as additional insureds. Coverage shall apply to any and all liability arising out of the towing and storage services furnished under these Service Provisions
- b) The Contractor's insurance coverage shall be primary insurance as respects the City, its officers, officials, employees and volunteers. Any insurance or self-insurance maintained by the City, its officers, officials, employees or volunteers shall be excess of the Contractor's insurance and shall not contribute with it.
- c) Any failure to comply with reporting provisions of the policies shall not affect coverage provided to the City, its officers, officials, employees or volunteers.

2) Commercial General and Automobile Liability Coverages.

- a) General and automobile liability insurance shall apply separately to each insured against whom a claim is made or suit is brought, except with respect to the limits of the insurer's liability. Coverage will not be limited to City's vicarious liability.

3) All Liability Coverages.

- a) No liability insurance coverage provided to comply with this Agreement or otherwise shall prohibit Contractor, or Contractor's employees, or agents, from waiving the right of subrogation prior to a loss.

## VEHICLE TOWING AND SECURE STORAGE SERVICE PROVISIONS

Page 6 of 24

Contractor waives its right of subrogation against the City.

- 4) All Coverages. Each insurance policy required by this clause shall be endorsed to state that coverage shall not be suspended, voided, cancelled, reduced in coverage or in limits except after thirty (30) days' prior written notice by certified mail, return receipt requested, has been given to the City Clerk of the City.
- f. Acceptability of Insurers. Insurance is to be placed with insurers with an A.M. Best and Company rating level of A or better and Class VII or better.
- g. Verification of Coverage. Contractor shall provide evidence of the insurance required herein, satisfactory to City, consisting of certificates of insurance and original endorsements evidencing coverage required by this Section 11. The certificates and endorsements for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf. The certificates and endorsements are to be on forms provided by the City. Where by statute, the City's workers' compensation-related forms cannot be used, equivalent forms approved by the Insurance Commissioner are to be substituted. All certificates and endorsements are to be received and approved by the City before work commences. The City reserves the right to require complete, certified copies of all required policies, at any time.
- h. Contractor shall also make restitution for any loss or damage suffered by the owner of a vehicle while in the Contractor's possession. Contractor shall file with the Chief of Police of the SFPD a policy or certificate of insurance, which shall inure to the benefit of any person who may be injured or damaged by the acts, negligence, or operations of Contractor in the conduct of such business, or in the operation or maintenance of the equipment used, such policy to be limited to not less than \$1,000,000 for the injury or death of one or more persons in any one accident, and \$50,000.00 for injury to or destruction of property in any one accident. In addition, the policy shall include insurance for fire, theft, and explosion, in the minimum amount of \$50,000 and collision coverage subject to a \$500 deduction, with each occurrence deemed a separate claim.

**VEHICLE TOWING AND SECURE STORAGE SERVICE PROVISIONS**

Page 7 of 24

- i. All policies required pursuant to this Section 11 shall be submitted to City Risk Manager for approval as to form.

**12. Contractor's Records, etc. Open to Inspection**

All records, equipment, and storage facilities shall be open to periodic inspection by SFPD or its representative. Any deficiency shall be corrected as soon as practicable upon request of the SFPD.

**13. Impound Reports**

Tow unit operator shall sign and complete the necessary portions of the impounding employee's Impound Report. The impounding employee shall retain the original copy of the Impound Report. Contractor shall retain a copy of the Impound Report for two years. The garage's copy of the Impound Report shall be used to record the vehicle release information in the appropriate space provided in the Impound Report.

**14. Notifications**

Contractor's employees while acting within the course of their employment shall cause the appropriate law enforcement agency to be notified without delay whenever they become aware of a possible crime or other activity requiring action by law enforcement personnel.

**15. Storage**

Storage shall commence at the time the vehicle arrives at the storage facility. Storage charges shall be based on a daily rate. The daily rate extends from 12:00 a.m. to 11:59 p.m.

Storage fee exceptions for vehicles that the City causes to be towed, stored, or impounded:

1. Contractor shall waive the storage fee when a release request is made within the first hour of storage.
2. Per SB 887 (1992, Lockyer), Contractor shall charge a one day storage fee when a release request is made within 24 hours of storage, regardless of the calendar date.
3. Contractor shall waive the one days' storage fee when a release request is made between 7 p.m. and 12 a.m. providing the Contractor releases the vehicle within the mandatory release hours of (7 a.m. to 7 p.m.) of the

**VEHICLE TOWING AND SECURE STORAGE SERVICE PROVISIONS**

Page 8 of 24

following day.

**16. Impound Hearings**

Contractor shall post and maintain the Vehicle Impound Hearing Rights Sign in a conspicuous location in Contractor's storage lots, clearly visible to the public. Contractor shall distribute a Vehicle Impound Hearing Rights Notice and written directions to the SFPD to any person who has had a vehicle impounded and requests an impound hearing.

**17. Lien on Stored Vehicles**

The employee of the City of San Fernando who is requesting the impound shall be responsible for establishing that "probable cause" exists to conduct the impound. When "probable cause" is lost prior to a vehicle being removed to a Contractor facility, no lien shall be attached and no fee shall be charged for the field release of a vehicle to a properly interested person.

**18. City Vehicles**

Contractor shall provide, at no cost to City, routine roadside service including, but not limited to, towing service, to all City-owned vehicles up to and including one (1) ton rated vehicles at the request of the Police Chief or his/her designee whenever such vehicles require such service within the City or within five (5) road miles of the corporate limits of the City.

**19. Traffic Accident Scene Cleanup**

At the request of the SFPD, the Contractor shall dispatch a tow unit to the scene of a traffic accident and remove all glass and debris deposited upon the roadway even if there is no disabled vehicle to tow.

**20. Fax Machine**

Contractor shall maintain a Fax machine.

**21. Toxic Materials**

City shall not knowingly require contractor to pick up, store or dispose of any toxic or hazardous materials, except for those normal fluids associated with motor vehicles.

## VEHICLE TOWING AND SECURE STORAGE SERVICE PROVISIONS

Page 9 of 24

### **22. Cost to City**

Any towing and storage expenses for which the City is financially responsible pursuant to this Agreement, including towing or storage of city-owned vehicles, shall be billed to the City at no more than fifty percent (50%) of the rate authorized by this contract.

### **23. Collection of Fees**

Contractor shall collect all fees imposed by City upon vehicles that City causes to be towed, stored, or impounded. Contractor shall remit collected fees to the City on a monthly basis.

### **24. Permits, and Certificates**

Contractor shall secure and maintain any licenses, permits, or certificates required by law. Contractor shall secure and maintain such City business license as required by the City of San Fernando Municipal Code. Contractor shall keep informed and comply with the requirements of all Federal, State, county and municipal laws, ordinances, and regulations applicable to the towing and storage services provided pursuant to this Agreement.

### **25. Background Investigation and Fee Required**

Prior to an award of a franchise agreement, the SFPD shall conduct or cause to be conducted background investigations of Contractor's business, its principals, and its tow unit operators assigned to tow requests from SFPD. Contractor, principals of Contractor's business and tow unit operators shall also be subject to livescan fingerprint checks in accordance with the Los Angeles Police Commission guidelines. Contractor shall notify the SFPD whenever a new tow unit operator is assigned to tow requests from SFPD. All new tow unit operators assigned to tow requests from SFPD shall be subject to background investigation and livescan fingerprint check, in accordance with the Los Angeles Police Commission guidelines.

### **26. Franchise Fees**

Contractor shall pay to the City on a quarterly basis the franchise fees authorized by City Council pursuant to San Fernando Municipal Code Section 90-911 and all resolutions authorized thereby.

Contractor's failure to make franchise fee payments shall be cause for City's immediate termination of a franchise agreement.



**VEHICLE TOWING AND SECURE STORAGE SERVICE PROVISIONS**

Page 10 of 24

**II. TOWING PROVISIONS****27 Place to Which Vehicles Shall be Towed**

Any vehicle towed pursuant to this Agreement shall be taken to such place as the owner or driver of the vehicle directs. When impounded by the SFPD it shall be taken to the storage lot designated by SFPD. If neither the owner nor the driver nor SFPD specifies a destination, is unable to do so, or is not at the scene of removal, Contractor shall tow the vehicle to Contractor's primary storage lot. In no case shall Contractor use coercion or pressure of any kind upon the owner or driver of a vehicle to have the vehicle towed to Contractor's own storage yard or garage.

**28. Evidence to be Safeguarded**

Contractor shall take all reasonable precautions required by the SFPD to avoid damage to any evidence or impounded vehicles such as fingerprints or stains. Vehicles taken into custody which involve such evidence shall be stored in the Investigative Hold Area, secured from unauthorized persons. Vehicles stored for prints shall be protected from dust and dirt or deterioration of evidence by the sun or other elements.

**29. Removal Charges**

Removal charges commence at the time a tow unit actually proceeds to a call for service from the SFPD and terminate at the time the tow unit returns to Contractor's primary storage lot. The first hour or fraction thereof shall be at the rate specified by the Chief of Police and at fifty percent (50%) of that hourly rate for each additional half ( $\frac{1}{2}$ ) hour or fraction thereof over the first hour.

**VEHICLE TOWING AND SECURE STORAGE SERVICE PROVISIONS**

Page 11 of 24

**III. STORAGE PROVISIONS****30. Storage Lot(s)**

Contractor shall provide a total storage capability for three-hundred fifty (350) vehicles.

**31. Primary Storage Lot**

Contractor shall at all times provide and maintain a primary storage lot with a minimum of one hundred fifty (150) vehicles dedicated to the storage of vehicles from SFPD pursuant to these Service Provisions. The primary storage lot shall be no more than five (5) miles from the SFPD Facility.

A primary storage lot, if more than one storage lot is maintained, shall be:

1. Immediately adjacent to or contain office facilities;
2. Adequate in size to accommodate all:
  - a. "Hold" vehicles;
  - b. Late model vehicles;
  - c. Specially equipped vehicles; and
  - d. Vehicles to be released immediately to owners.
3. Entirely surfaced with either concrete or asphalt material;
4. Free of holes or areas that are decomposed or broken;
5. Clean and free of litter, debris, or weeds;
6. Sufficiently lighted to afford easy visibility to all areas of the lot and minimal security; and
7. Sufficient to afford ready and easy access to all vehicles.

**32. Investigative Hold Area and Vehicles**

Contractor shall maintain an area at its primary storage lot for vehicles held for criminalistics and/or evidentiary examinations. This area shall be referred to as the Investigation Hold Area and shall:

## VEHICLE TOWING AND SECURE STORAGE SERVICE PROVISIONS

Page 12 of 24

1. Be covered and capable of providing protection from the natural elements;
2. Be fenced and gated (so as to prohibit entry by unauthorized persons as prescribed by the Chief of Police or his/her designee) with remote access controlled by the dispatcher; and
3. Be capable of holding ten (10) vehicles.

All entries into the Investigative Hold Area shall be documented to identify the vehicle seen, the person entering, and the date and time the person entered the area. The only persons authorized to enter an Investigative Hold Area are Contractor and his/her employees and concerned law enforcement personnel.

Contractor employees shall not remove property from vehicles being held for criminalistics and/or evidentiary purposes. Vehicles stored in an Investigative Hold Area shall not be removed from the area until authorized by the responsible SFPD investigator. Once an investigative hold has been released on a vehicle it shall be immediately removed from the Investigative Hold Area. The date and time of removal and the removing employee's identity shall be recorded in Contractor's records.

Vehicles being held for Vehicle Code ("VC") 22651(o) (No Current Registration); VC 22651 (p) (Unlicensed Driver); VC 14602.6(a) 30 Day Impounds; VC 22651 (i) Unpaid Parking Citations); or VC 10751 (Altered Identification Number) (hereafter referred to as "statutory holds") need not be stored in the Investigative Hold Area but shall be stored in the same manner as vehicles available for release, unless there is an additional hold for criminalistic or evidentiary examinations. Storage lot employees may remove unattached personal property for safekeeping when a vehicle is being held exclusively for statutory hold. Any statutorily held vehicle shall not be available for release until authorized by the concerned governmental agency employee or the Area Vehicle Coordinator.

### **33. Secondary Storage Lots**

Contractor shall provide a total storage capability for 200 vehicles in the secondary storage lots. All secondary storage lots shall be inspected and approved by the Chief of Police of SFPD or his/her designee prior to use. A secondary storage lot is a designated location used by Contractor as a yard or lot for the temporary storage of impounded vehicles. Contractor and his/her employees shall accurately record the location of vehicles stored within a secondary storage lot in the Contractor's impound records.

## VEHICLE TOWING AND SECURE STORAGE SERVICE PROVISIONS

Page 13 of 24

Secondary storage lots shall be:

1. Within five (5) miles of the primary storage lot;
2. Fenced for maximum security;
3. Sufficiently lighted to afford easy visibility to all areas of the lots and minimal security;
4. Monitored by Contractor or his/her employees with security camera surveillance systems;
5. Clean and free of litter, debris, and weeds; and
6. Provide easy access to all stored vehicles.

### **34. Storage of Vehicles**

All vehicles towed or stored by Contractor under these Service Provisions, shall be kept within a primary or secondary storage lot when under the Contractor's direct supervision. At no time shall Contractor park, store or leave standing vehicles under his/her direct supervision on any public street or alley.

Undamaged vehicles shall be segregated from wrecked or junk vehicles and shall be kept in the primary storage lot. All vehicles shall be systematically parked and sufficiently separated to preclude the probability of damage. Unobstructed access shall be provided to all stored vehicles.

Contractor shall implement security provisions for all storage lots to prevent the loss or theft of personal property or vehicle parts or damage to stored vehicles.

### **35. Enclosing of Storage Areas**

Outdoor areas used for storage shall be enclosed with a solid wall, chain link or wrought iron fence at least six (6) feet in height, having a gate or door of adequate width and equivalent height. The fence shall be covered from public view. The bottom edge of any such fence or wall, including all gates or doors, shall be maintained in such a manner as to prevent unauthorized entry. All wall or fence enclosures shall be maintained in good condition throughout the term of any franchise agreement. Contractor shall promptly repair any damage within twenty-four (24) hours of notice of such damage from the City.

**VEHICLE TOWING AND SECURE STORAGE SERVICE PROVISIONS**

Page 14 of 24

**36. Office**

The Contractor's office shall be neat in appearance, clean and painted. Contractor shall provide customers a waiting area with an adequate restroom or other facilities for customers' comfort.

**37. Body and Fender Repairs**

Except as otherwise provided herein, Contractor shall not perform any body or fender repairs on storage lots, nor shall Contractor, during the term of any franchise agreement, conduct or have an interest in any body or fender repair business. Contractor shall not be prohibited from performing body or fender repair work on any of those vehicles owned or operated by Contractor on any of Contractor's storage lots.

**38. Responsibility for Vehicle, Accessories, and Personal Property**

Contractor shall be responsible for vehicles and accessories while in Contractor's possession. Contractor shall also be responsible for personal property left in a vehicle at the time possession of a vehicle is taken. All property left in a vehicle should be listed on the California Highway Patrol 180 form. No articles shall be removed without first obtaining written authorization from an SFPD officer. Any articles removed for any reason shall be noted by an SFPD officer.

Contractor shall maintain a record of the identify of all persons who have entered a stored vehicle for the purpose of accessing unattached personal property. The record shall also include the date of entry and a description of any property removed. Unattached personal property may be removed for safekeeping by storage lot employees, but only from available for release and statutorily held vehicles. When Contractor removes unattached personal property for safekeeping from a vehicle, the following shall occur:

1. Record a description of the removed property on the corresponding copy of a storage lot impound report.
2. Implement controls to inform Contractor personnel responding to public inquiries that personal property has been removed from a vehicle.
3. Cause the property to be individually packaged and identified.
4. Provide a secure location for the storage of the property to preclude loss, theft or damage.

## VEHICLE TOWING AND SECURE STORAGE SERVICE PROVISIONS

Page 15 of 24

### **39. Protection and Handling of Vehicles**

It is the responsibility of the Contractor to protect all vehicles, vehicle parts and/or attached accessories impounded by SFPD officers or employees until such time the vehicles have either been released to properly interested persons or have been disposed of through a legal process.

Vehicle parts and/or attached accessories shall not be removed from an impounded vehicle with a criminalistics/evidentiary hold on the vehicle without the prior approval of the concerned SFPD law enforcement personnel. Contractor employees may remove parts and/or attached accessories from other impounded vehicles for safekeeping. When a Contractor removes vehicle parts and/or attached accessories for safekeeping from a vehicle it shall:

1. Record a description of the removed vehicle parts and/or attached accessories on the corresponding copy of the storage lot impound report.
2. Implement controls to inform Contractor personnel responding to public inquiries that vehicle parts and/or attached accessories have been removed from a vehicle.
3. Cause the vehicle parts and/or attached accessories to be individually packaged and identified.
4. Provide a secure location for the storage of the vehicle parts and/or attached accessories to prevent loss, theft or damage.
5. Inform properly interested persons that parts and/or attached accessories have been removed and how they may obtain possession of that property.

Contractor shall be responsible for the release of impounded vehicles available for release. Criminalistics/evidentiary or statutorily held vehicles shall not be available for release until a SFPD employee has given authorization to Contractor.

Contractor, at its primary storage facility, shall prepare, maintain, and post in a conspicuous place, clearly visible to the public, a notice outlining procedures and the required documentation necessary for properly interested persons to obtain possession or remove unattached personal property from a stored vehicle and/or to view or photograph a stored vehicle within twenty-four (24) hours of making such a request.

Vehicle inventories, when conducted by Contractor's employees, shall only be conducted within the confines of a storage facility and in the presence of a witnessing

**VEHICLE TOWING AND SECURE STORAGE SERVICE PROVISIONS**

Page 16 of 24

employee.

**40. Release of Vehicles**

A dispatcher shall be responsible for releasing vehicles between the hours of seven (7) a.m. and seven (7) p.m., seven (7) days a week, every day of the year and may, at his/her discretion, release vehicles between the hours of seven (7) p.m. and seven (7) a.m. Any vehicle impounded in connection with a special event, as designated by the Chief of Police or his/her designee, shall be available for release for a minimum period of four (4) hours following the conclusion of the special event.

**41. Authorized Rates and Charges**

The Contractor may submit to the Chief of Police a written request for a change of rates. All requests for rate adjustment shall set forth the Contractor's current charges and the proposed charges. Verifiable profit or loss information may be required prior to any rate adjustment. Rates and charges shall not exceed those established by the City of Los Angeles Police Commission for its Official Police Tow Garages as such rates shall from time to time be amended. If the City, in its sole discretion, decides to amend the rates for towing and storage of vehicles to a different rate schedule than the one employed by the City of Los Angeles, it shall give Contractor notice of its intention to adopt an amended schedule and negotiate with Contractor for a period of sixty (60) days before a new schedule is enacted.

Except as provided by the rate schedule, additional charges shall not be made for special equipment or service necessary to prepare vehicles for removal.

All bills shall be itemized.

**VEHICLE TOWING AND SECURE STORAGE SERVICE PROVISIONS**

Page 17 of 24

**IV. STAFFING PROVISIONS****42. Sufficient Personnel**

Contractor shall have sufficient personnel on duty at all times to:

1. Receive calls from the SFPD communications center;
2. Dispatch tow units;
3. Provide security at all storage sites; and
4. Provide such services as may be required under this Agreement.

**43. Dispatcher**

A dispatcher shall be on duty in the office of the Contractor seven (7) days a week, twenty-four (24) hours a day, every day of the year. A dispatcher shall receive calls from San Fernando Police Department (SFPD) and its communications center, dispatch tow units, provide security for stored vehicles, and perform such other tow related services as may be required by the Chief of Police. A dispatcher shall be responsible for releasing vehicles between the hours of 7 a.m. and 7 p.m., seven (7) days a week, every day of the year and may, at his or her discretion, release vehicles between the hours of 7 p.m. and 7 a.m. any vehicle impounded in connection with a special event, as designated by the Chief of Police or designee, shall be available for release for a minimum period of four (4) hours following the conclusion of the special event. A dispatcher and/or other Contractor employees providing service to the public shall wear their first name conspicuously on their clothing. The contractor shall be responsible to provide the nametag.

**44. Timekeeping and Delays**

Contractor shall record the following times pertaining to SFPD tow service requests by means of a computer aided dispatch system (CAD) and a global positioning satellite system (GPS):

- The time that a request for tow service is received.
- Time that a tow unit is assigned the call for service and given the location of the requested service.
- The time that a tow unit arrives at the location of requested service, and



## VEHICLE TOWING AND SECURE STORAGE SERVICE PROVISIONS

Page 18 of 24

- The time that a tow unit returns to the Contractor's storage lot with the vehicle.

Contractor shall ensure that a sufficient number of tow units and tow unit operators are available at all times to meet the needs of the SFPD and City departments that rely upon it for tow and storage service. Within fifteen (15) minutes of the receipt of a request for tow service from SFPD or its communications center, an available, unassigned tow unit and operator shall be dispatched and shall immediately proceed to the location of the requested service. Contractor shall advise the communications center when a tow unit cannot be dispatched within fifteen (15) minutes and shall give the reason why the tow unit cannot be dispatched and an estimated time of dispatch. Once dispatched, a tow unit operator shall respond to an assigned call by the most direct and expeditious route.

**EXCEPTION:** Orders to remove abated vehicles or vehicle parts from private property shall be executed by the ordered Contractor within forty-eight (48) hours of receiving such notification.

**45. Operators**

Contractor shall employ no person as a tow unit operator until he or she possesses the appropriate class of California drivers license and medical certificate, if required, for the type of tow unit being operated.

Tow unit operators shall wear a uniform approved by the Chief of Police whenever they are performing services in response to a call from the SFPD. A nametag identifying the tow unit operator by first name shall be worn on the operator's outer most shirt or jacket. Contractor shall provide the tow unit operators' nametags.

**VEHICLE TOWING AND SECURE STORAGE SERVICE PROVISIONS**

Page 19 of 24

**V. VEHICLES AND EQUIPMENT PROVISIONS****46. Tow Units Radio Equipment**

Contractor may equip tow units and facilities with radio equipment capable of receiving police calls, police frequency and/or local government frequencies. On those tow units that primarily operate after normal business hours, Contractor may also have transmitting capabilities on local government frequencies for emergency contact with the SFPD communications center.

**47. Dispatcher's Office Radio Communications**

The Contractor's dispatcher's office shall be equipped to receive "police calls." Priority shall be given to calls from SFPD or its communications center. In the event that multiple agency requests for services are received at the same proximate time, the dispatcher shall assign response priority to the request of the most urgent nature based upon information the dispatcher has received. Tow units may be equipped to monitor "police calls" while acting within the course and scope of their designated responsibilities after obtaining a permit from the Chief of Police.

**1. Tow Trucks.**

- a. Contractor shall maintain a minimum of three (3) fourteen thousand (14,000) to nineteen thousand five hundred (19,500) GVW manufacturer rated tow trucks with wheel lift capabilities. The main winch (es) shall be either mechanically or hydraulically driven and shall have a single or combined capacity of at least four (4) tons at bare drum or one (1) wrap of cable with a minimum of one hundred feet (100') of cable. Wheel lifts shall be rated at a minimum of 3,000-lbs. lift capacity.

Each tow truck with wheel lift capabilities shall be equipped with a snatch block, dollies, one (1) ton floor jack and J/T hook chain assemblies.

Contractor shall maintain a minimum of one (1) fourteen thousand (14,000) GVW manufacturer rated car carrier. The main winch (es) shall be either mechanically or hydraulically driven and shall have a single or combined capacity of at least four (4) tons at bare drum or one (1) wrap of cable with a minimum of fifty feet (50') of cable.

## VEHICLE TOWING AND SECURE STORAGE SERVICE PROVISIONS

Page 20 of 24

- b. Official heavy-duty tow units will be requested by SFPD or its communication center when the vehicle to be towed possesses one (1) or more of the following: three (3) or more axles; a gross weight, laden or unladen, in excess of ten thousand (10,000) pounds; or a combination of commercial trailers. Contractor may subcontract for heavy-duty tow services. The subcontractor shall meet the standards set forth in these Service Provisions.
- c. All trucks used in performing towing services under these Service Provisions, shall conform to all requirements of the California Vehicle Code and shall comply with the following:
  - 1) Truck bodies shall be painted and kept clean and in good repair, free of dents;
  - 2) The cab interior shall be kept clean and only proper equipment shall be kept inside;
  - 3) The tow truck bed shall be kept clean and equipment shall be properly mounted and maintained;
  - 4) Tail lamps, stop lamps and turn signal lamps with electrical extension cord shall be operable and shall be used on all towed vehicles; and
  - 5) Carry the following equipment:
    - a) State approved air tank or air transfer system
    - b) Flashlight or portable light
    - c) Floor jack - 1-ton minimum capacity
    - d) Gasoline container – two and one-half (2½) gallon minimum capacity
    - e) Lug wrench – four (4) way and wrench for foreign cars
    - f) Water container – three (3) gallon minimum capacity
    - g) Battery booster and cables

## VEHICLE TOWING AND SECURE STORAGE SERVICE PROVISIONS

Page 21 of 24

- h) Shovel
- i) Push Broom
- j) Flares
- k) Bolt cutters
- l) Pry bar
- m) twenty five (25) foot recovery chain
- n) Trash can and absorbent

**48. Tow Truck Parking**

Contractor shall at all times provide sufficient off-street parking spaces for the parking and storage of vehicles and other equipment used in the performance of these Service Provisions.

**49. Tow Unit Markings**

Each tow unit shall be marked as required by California Vehicle Section 27907. Lettering shall be at least two and one-half (2½) inches but not in excess of four (4) inches in height. Tow units may be marked with an official San Fernando Police Department Garage marking.

VEHICLE TOWING AND SECURE STORAGE SERVICE PROVISIONS  
Page 22 of 24

**EXHIBIT B**

**TOWING PROGRAM FRANCHISE FEE  
BLACK & WHITE TOWING  
QUARTERLY STATEMENT**

**CITY OF SAN FERNANDO TOWING PROGRAM**  
**FRANCHISE FEE QUARTERLY STATEMENT**  
**BLACK & WHITE TOWING, INC.**

REPORTING PERIOD \_\_\_\_\_

**FEE COMPUTATION**

Based on Customers within City of San Fernando

1. TOTAL NUMBER OF VEHICLES TOWED THIS QUARTER \_\_\_\_\_
2. Franchise Fee (\$45.00 X line 1) \$ \_\_\_\_\_

---

**READ CAREFULLY BEFORE SIGNING**

I hereby certify under penalty of perjury under the laws of the State of California that the above information is correct and the fee calculations are true to the best of my knowledge.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

## ATTACHMENT "C"

## VEHICLE AND SECURE STORAGE SERVICE INSPECTIONS

## COMPARISON SUMMARY

	<b>Black &amp; White Towing</b>	<b>Jon's Towing</b>	<b>Larry's Towing</b>	<b>Mid Valley Towing</b>
<b>I. GENERAL PROVISIONS</b>	<b>Date of Inspection 3/6/14</b>	<b>Date of Inspection 3/6/14</b>	<b>Date of Inspection 3/6/14</b>	<b>Date of Inspection 3/5/14</b>
Permits & Certifications	<ul style="list-style-type: none"> <li>City of San Fernando Business License # 00000474</li> <li>City of Los Angeles business license # 520430</li> <li>County Business License #450465</li> <li>Hazardous Waste &amp; Hazardous Materials Management Program Consolidated Permit from L.A. City Fire #AR0032104</li> <li>DMV Pull Program Participant</li> <li>California Motor Carrier's Permit (DMV), CA # 0141058</li> </ul>	<ul style="list-style-type: none"> <li>City Business License # 941871</li> <li>DMV Pull Program Participant</li> <li>California Motor Carrier's Permit (DMV), CA # 0278167</li> </ul>	<ul style="list-style-type: none"> <li>City of San Fernando Business License # 00061220</li> <li>DMV Pull Program Participant</li> <li>California Motor Carrier's Permit (DMV), CA #0370367</li> </ul>	<ul style="list-style-type: none"> <li>City Business License #not active as of 3/11/14</li> <li>DMV Pull Program Participant</li> <li>California Motor Carrier's Permit (DMV), CA # 0141551</li> </ul>
<b>II. STORAGE PROVISIONS</b>	<b>*Met</b>	<b>*Met</b>	<b>*Met</b>	<b>Met</b>
Total Storage	650	65	68	130
Primary Storage Lot	(320) vehicle capacity, combination of concrete and asphalt in very good condition, approximately 2 acre lot with industrial lighting and video surveillance covering all areas, contains covered storage area for substantially wrecked vehicles, side lot contains higher end vehicles with a separate area for motorcycles which is separated via block wall. Vendor has CAD with GPS in addition to internet accessed VIIC for current vehicle impound status for tracking, inventory, and reporting at no	*The owner is proposing to lease property on First St. in San Fernando for 5 years that would meet all of the RFP requirements pursuant to receiving the contract. Lot inspected would be used as secondary lot for vehicles valued under \$1,000.00. At present, Owner uses Tow Book Software for tracking, inventory and reporting.	*Upon award of contract, Owner proposes to remove storage shed, purchase (10) auto stackers that it can hold (20) vehicles, store (6) vehicles in hold area and park all equipment within yard. The aerial photograph provided does not appear to substantiate that capacity and vehicles would be parked mirror to mirror with minimal room for access. Lot is 8,000 square feet composed of asphalt and concrete that is in fair and good condition. Industrial lighting	One portion of the lot is concrete and the adjacent portion, separated by an 8' wrought iron fence, is asphalt. The asphalt portion is in poor condition and is currently being leased to another company for vehicle storage. The owner verbally described the 130 capacity as "tight." The lot has industrial lighting and video surveillance but the owner was unable to provide a complete demonstration of the video acuity at the TOI. It is unknown what, if any tracking software is used. The lot contains a



## VEHICLE AND SECURE STORAGE SERVICE INSPECTIONS

## COMPARISON SUMMARY

	<b>Black &amp; White Towing</b>	<b>Jon's Towing</b>	<b>Larry's Towing</b>	<b>Mid Valley Towing</b>
	cost to customers.		and video surveillance. *Owner proposes to purchase Impound Software and support for vehicle tracking, inventory and reporting.	securable container for evidentiary parts. The lobby has a seating area with a pay phone.
Investigative Hold Area & Vehicles	(10) vehicles, separate outbuilding that is electronically monitored for entry and exit from the communications center only, completely enclosed, video monitored, air conditioned, illuminated, two story with conference room available on top level. Also contains a separate secure area with a securable roll up door for long term evidentiary needs.	*None. Owner is proposing to lease property in San Fernando that would meet the investigative hold criteria.	Owner stated (6) vehicle capacity which would not afford substantial room for inspections. The area is partially enclosed within main building with 6' sliding steel door separating main office building from storage area. Storage area is open and unsecured from top of door to roof, illuminated, air conditioned, video monitored.	Current hold area has (1) vehicle capacity and is enclosed by open top chain link fence under outdoor car port, exposed to elements, and not monitored by video. *Upon award of contract, Owner proposed to convert two areas within yard that are currently used as storage and vehicle repair to investigative hold areas.
Secondary Storage Lots	(330) vehicle storage capacity, asphalt, industrial lighting, security video, hold conduct weekly public auctions of lien vehicles, enclosed with a solid block wall with covered security gate for limited visibility inside. Has office adjacent to lot with bathroom and chairs for customer seating. Secondary lot is .7 miles from the SFPD.	*The lot is partial asphalt and partial dirt and is in general poor condition. Had industrial lighting but limited working surveillance cameras at TOI.	*None. Owner proposed the purchase of another property to meet the requirement.	*None. Owner states that he could secure a lot on First Street in San Fernando within 90 days of award of contract.
Storage of Vehicles	Vehicles are parked with about 4' between each which permits unrestricted access to all sides and prevents damage and injury from contact with other vehicles. Vehicles are	Upon inspection, there was no systematic logic to storage of vehicles as it appeared that all types were stored together. They do not inventory or photograph the vehicles as they	Vehicles are parked in marked spaces with long term vehicles parked in the rear portion of the yard. Owner stated vehicles are separated according to value and	Owner stated vehicles are separated according to value and condition with the "nice" vehicles stored along the wall portions of the lot. During the inspection, many appeared

## VEHICLE AND SECURE STORAGE SERVICE INSPECTIONS

## COMPARISON SUMMARY

	<b>Black &amp; White Towing</b>	<b>Jon's Towing</b>	<b>Larry's Towing</b>	<b>Mid Valley Towing</b>
	systematically parked so as to segregate damaged or wrecked vehicles from undamaged and higher value vehicles. Vehicles are parked with 30 day impounds segregated in back portion of lot to reduce likelihood of damage. Vehicles are photographed at location towed from and inventoried upon arrival to the yard. Valuable items located within are secured in security lockers on the premises with	are parked in the lot.	condition with damaged vehicles parked in a rear portion of the yard. Owner stated vehicles are not inventoried or photographed and are locked upon arrival to yard.	comingled. Owner stated that long term vehicles are stored on car carrier racks. Vehicles on the ground were parked approximately 2' apart. Vehicles are not inventoried or photographed upon arrival.
Distance from SFPD	1.49 Miles	7.85 Miles	.61 Miles	8.12 Miles
Enclosing of Storage Area	8' block wall with wrought iron on public access side, security gate to prevent outside view of lot, one gate entry and exit to property along with another gate for access to tow yard. Surrounding walls have concertina wire atop block wall.	Chain link with 8' corrugated steel against it on adjacent business side with no concertina wire atop.	6' block wall with concertina wire on top, solid gates with wrought iron.	8' block wall, in conjunction with concertina wire atop and solid 8' electronic gate. Primary lot is surrounded by adjacent industrial buildings.
Office	Fully developed with six video monitors and customer service window. Manager office also has video monitor of surveillance footage of both primary and secondary lots. Waiting room has seating area with vending machine and toilet facilities accessible without employee assistance. Off-street customer parking for	Office is adjacent to small waiting area that has no seating or restroom facilities	Total 660 square feet with waiting area that does not have seating. Toilet and seating available past secure door with assistance of employee. Clean and well lit with no direct surveillance footage in waiting area.	The office is adjacent to the reception area and is in good condition. A restroom facility is available down the hall from the office that patrons are permitted to use with an escort.

## VEHICLE AND SECURE STORAGE SERVICE INSPECTIONS

## COMPARISON SUMMARY

	Black & White Towing	Jon's Towing	Larry's Towing	Mid Valley Towing
	ten vehicles that is adjacent to office, well lit, video surveillance, and secured by a wrought iron fence.			
Body & Fender Repair	None	None	None	None
<b>III. STAFFING PROVISIONS</b>				
Sufficient Personnel	Vendor employs a total of (21) people	Vendor employs a total of (13) people	Vendor employs a total of (7) people	Vendor presently employs (10) people
Dispatcher	Office staffs (2) dispatchers during day time hours and has a total of (6). Hours are 7 a.m. to 7 p.m., 7 days per week, 365 days per year.	(1) Dispatcher working M-F 8 a.m. to 5 p.m.	Office has (1) dispatcher which is the owner and tow operator that can answer calls M-F, 8 a.m. to 5 p.m. Owner proposes to be available 24 hours upon award of contract.	(2) during week working in office 8 a.m. to 5 p.m. On weekends, office is not staffed and has (1) on-call driver/dispatcher. After hour calls are forwarded to the owners over the weekends.
Operators	(11) Drivers	(6) Drivers	(6) total with owner acting also as driver	(7) Drivers
<b>IV. EQUIPMENT PROVISIONS</b>				
Tow Units Radio Equipment	(2) Tow, (9) Flatbeds, (5) Forklifts	(4) Flatbeds, (8) Tow units	(1) Tow, (2) Flatbeds, (2) Heavy Duty, (1) Tractor Trailer, (1) Forklift	(3) Tow and (3) Flatbeds, (1) Forklift.
Office Radio Communications	No: Business provided cell phones / push to talk. No	No: Business provided cell phones / push to talk. No	Yes	No: Business provided cell phones / push to talk. No:
Vehicle Equipment	Vehicles inspected were fully equipped	Vehicles inspected were fully equipped	Vehicles inspected were fully equipped	Vehicles inspected were fully equipped
Tow Truck Parking	All trucks were parked on the lot. There is space within the customer parking for overflow equipment if needed.	All trucks were parked within lot. There appeared to be sufficient space on the street for overflow equipment parking.	All trucks were parked on the lot. There is one space in front of the business.	All trucks were parked within the lot with the exception of one oversize truck that was parked on the street
Tow Unit Markings	Vehicles were all appropriately marked.	Vehicles were all appropriately marked.	Vehicles were all appropriately marked.	Vehicles were all appropriately marked.

## VEHICLE AND SECURE STORAGE SERVICE INSPECTIONS

## COMPARISON SUMMARY

	Black & White Towing	Jon's Towing	Larry's Towing	Mid Valley Towing
<b>V. INSURANCE PROVISIONS</b>	Met	Not Met	*Will meet upon award	Not Met
Worker's Comp	1,000,000	1,000,000	1,000,000	1,000,000
Garage Liability	1,000,000	1,000,000	1,000,000	1,000,000
Franchise Liability	1,000,000	1,000,000	1,000,000	1,000,000
Garage-Keeper's	1,000,000	100,000	*300,000	500,000
On-Hook Liability	1,000,000	50,000	*100,000	250,000

**ATTACHMENT "D"****Photographs of Black & White Garage, Inc.**



Photographs of Black & White Garage, Inc.



Photographs of Black & White Garage, Inc.





Photographs of Black & White Garage, Inc.





Photographs of Jon's Towing



Photographs of Jon's Towing





Photographs of Jon's Towing



Photographs of Jon's Towing





Photographs of Larry's Towing



Photographs of Larry's Towing





Photographs of Larry's Towing



Photographs of Larry's Towing





## Photographs of Mid Valley Towing



Photographs of Mid Valley Towing





Photographs of Mid Valley Towing



# Photographs of Mid Valley Towing





**Photographs of Mid Valley Towing**



## **ATTACHMENT “E”**

RFPs for City Vehicle Towing and Storage Services were provided under separate cover to the City Council on March 17, 2014 and are available for viewing in the City Clerk's Office



*This Page  
Intentionally  
Left Blank*



## **CITY COUNCIL**

### **MEMORANDUM**

TO: City Councilmembers

FROM: Mayor Sylvia Ballin

DATE: March 24, 2014

SUBJECT: Proposed Changes to the Membership of the Budget, Personnel, and Finance (BPF) Standing Committee

---

#### **RECOMMENDATION:**

I have placed this on the agenda for City Council discussion and consideration.

#### **BACKGROUND:**

On June 17, 2013, City Council met to discuss various issues regarding the five Standing Committees. Concerns included: maximizing staff time (meetings were regularly scheduled then cancelled); the cumbersome process to add items to the agendas; the need to focus on efficiency due to staffing shortages (cost savings); and the need to get City Commissions more involved with certain items. City Council placed Standing Committees on hold until a future date.

Interim Finance Director Rafaela King has requested the immediate need to meet with the members of the Budget, Personnel, and Finance (BPF) Standing Committee to present the Fiscal Year 2014-2015 Budget Schedule.

I would like to propose changes to the membership of the BPF Standing Committee by removing both myself and Councilmember Jesse Avila and appointing Mayor Pro Tem Robert C. Gonzales and Councilmember Joel Fajardo.